

PERFORMANCE PARTNERSHIP AGREEMENT

Joint Performance Plan for FFY01 and FFY02

Environmental Protection Agency / New England
And
Maine Department of Environmental Protection

Responsible Management

- Environmental Stewardship
- Air Quality
- Land and Water Quality
- Materials Handling

**PERFORMANCE PARTNERSHIP AGREEMENT
BETWEEN
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND EPA NEW ENGLAND**

The purpose of the Performance Partnership Agreement (Agreement) is to set forth the understandings reached regarding the federal/state relationship in our mutual efforts under the National Environmental Performance Partnership System (NEPPS). This agreement is consistent with NEPPS. The parties to this agreement are the Maine Department of Environmental Protection (DEP) and Region I of the United States Environmental Protection Agency (EPA), as represented by the Maine Office of Ecosystem Protection.

By signing this Agreement, the Maine Department of Environmental Protection and EPA New England agree to utilize the strategies embodied in the NEPPS process. We anticipate that this Agreement will serve as a sound basis for guiding our program performance for FFY01 and FFY02. It is also expected that the environmental goals, objectives and outcomes, and agency commitments embodied in this Agreement will be refined over time as this management approach is informed by mutual experiences and stakeholder input.

This Agreement covers the programmatic commitments supported by grants, in whole or in part, as referenced under funding sources in the specific workplan sections (Part II).

This agreement will serve as Maine DEP/EPA New England's joint performance plan for FFY01 and FFY02.

Maine Department of
Environmental Protection

US Environmental
Protection Agency, New England

Martha G. Kirkpatrick
Commissioner

Ira W. Leighton
Acting Regional Administrator

Date: _____

Date: _____

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INTRODUCTION

The first State entity created to address environmental matters in Maine was a small board established in 1941 and charged with recommending ways to improve the quality of some of the state's recreational waters. Pollution was a fact of life that interfered with some forms of outdoor activity. The board's focus was narrow and its actions limited.

As the nation and our state became more attentive to environmental degradation and the factors causing it, the Maine legislature responded by establishing the Department of Environmental Protection (DEP) in 1972. Like its counterparts in other states, it began controlling industrial pollution through a regulatory system.

Over the next 20 years, major sources of pollution were brought under control through end-of-pipe engineering approaches. Relationships between the Maine DEP and the regulated community matured, becoming less confrontational and more collaborative.

The Maine DEP continues to react to environmental problems; however, the approach is shifting from reliance on traditional engineering to finding societal, cultural and managerial solutions. DEP is responding, in 1994, we created a new Watershed Management Division to address water resource issues holistically and in partnership with communities and other stakeholders. By working with businesses we are now pursuing pollution prevention and the eventual elimination of pollution. And, at the same time, many Maine businesses are also evolving in this direction. As a society, we need to view environmental protection not as an add-on but as an essential part of economic and social policy.

This document describes our current response to the challenge of creating a cleaner and healthier environment. Many of the activities described in this agreement are on-going programmatic responses to environmental problems. However, to be effective the Department recognizes that it must adapt, remain flexible and be able to re-deploy its resources to meet changing priorities.

The Department maintains an on-going dialogue regarding its policies, programs and procedures with various interest groups, legislators and citizens. This dialogue is an essential part of the way we develop our strategies to protect the environment and has proved invaluable to accomplishing our goals.

This document has been structured to serve two purposes. It is the Department's strategic plan, prepared to meet the planning and budgeting requirements of Maine state government, and it also serves as our contractual agreement under the National Environmental Performance Partnership System with Region I, EPA.

Each major program—Responsible Management and Stewardship, Air Quality, Land and Water Quality, and Materials Handling—has a Goal statement that guides the overall efforts of the program. Each also has an Overall Performance Budget Objective, which provides a basis against which the relative degree of program success can be measured as a part of the State's Performance Budgeting process. Funding for programs has also been identified so that the reader can understand the relative contribution of financial support from various sources. The time frame for this agreement stretches out to 2005 because most strategies and activities will take several years to achieve; however, activities for Federal Fiscal Years 2001 and 2002 have been noted.

In addition, for the first time, Compliance and Enforcement activities have been integrated into each of the major program areas to give the reader a more complete picture of Maine DEP's efforts to protect the environment. EPA recently completed an audit of all of the Maine DEP's compliance and assistance programs and any agreed upon follow-up activities will become part of this agreement.

PERFORMANCE PARTNERSHIP WORKPLAN

A. RESPONSIBLE MANAGEMENT AND ENVIRONMENTAL STEWARDSHIP

GOAL: To ensure that Maine's environment remains healthy and productive in perpetuity, through the efficient and effective delivery of department services and the development of an ethic of public responsibility for the State's natural resources.

OVERALL PERFORMANCE BUDGET OBJECTIVE:

To manage the leadership and business side of the agency efficiently and effectively while responding to internal and external customer needs in a timely manner.

ISSUE STATEMENT:

During the last third of the twentieth century, environmental protection in Maine changed and matured first to meet, then to anticipate new challenges. It has engaged industries, activists, regulators and citizens in varying capacities to achieve a common end – sustaining, in perpetuity, the natural resources that support our quality of life.

This goal speaks directly to that end. For it to be achieved, the Department must continue to develop and improve our tools and services. We must continue to encourage and help citizens and industry find ways to minimize impacts on our environment. Additionally, Maine state government must become a model for the core value of environmental stewardship. We can achieve this objective through a concerted commitment to public service, pollution prevention, smart production and education.

FUNDING SOURCES:

In FFY00, expenditures of \$4,306,220 to support this goal came primarily from the following sources: State General Fund \$530,562 (12.3%); Federal Funds Overhead \$857,171 (19.9%); Dedicated Funds Overhead \$2,918,487 (67.8%)

RECENT PERFORMANCE:

In FFY00, the Department's Environmental Stewardship program, through its education and outreach efforts (A-4-03) continued to inform Maine people about environmental issues. The 1999 survey data shows that the number of Maine residents routinely participating in environmental programs or activities is now at 17%, up from the baseline of 12% and headed toward the 2002 goal of 25%.

During the past year, the comprehensive education program has contributed to this increase including: the development and airing of four television public service announcements (PSAs) and the broadcast of a series of radio PSAs on water quality; informational exhibits at two high traffic, multiple-day, general public events (OpSail 2000, Common Ground Fair); weekly publication of a newspaper column (in large and small circulation papers state-wide, "Real Estate", "Home & Garden") on timely topics targeted to the average citizen; paid informational advertisements in special tabloid inserts ("Real Estate", "Home and Garden", OpSail 2000) to the state's largest Sunday circulation newspaper, establishment of a internet inquiry capability to encourage questions and comments from the public; development of informational materials ("cyberspections", real-time air quality monitoring data, ozone forecasting, etc.) for all audiences accessing the Department's web site (and promotion of that site); creation of a state-wide school project that involved student field observations and internet interaction between the classrooms and the Department ("Jeepers Peepers"); and staff participation in numerous community activities. While the specific topics addressed in each of these initiatives may change according to Department priorities and public interest, the types of activities are planned to continue under this PPA.

In FFY00, the Department's Pollution Prevention Program (P2 Program) supported and led Star Track audits at two Maine facilities, and reviewed and supported two XL projects at International Paper. An EMS incentives program was developed to encourage voluntary compliance with environmental laws and regulations. Staff in the P2 Program provided onsite assistance to companies with P2 or compliance issues, and partnered with many groups, including the Maine Technology Institute to encourage new environmental technology development. The P2 Program recognized 21 of Maine's environmental leaders with Governor's Annual Awards for Environmental Excellence and for adoption of ISO 14001 Environmental Management Systems.

PUBLIC PARTICIPATION:

While not a part of the FY2000 Performance Partnership Agreement, the Department has embarked on a Smart Production initiative. A Smart Production Advisory Committee was formed to assist the Department in creating a vision for Smart Production and to develop an implementation strategy. The Committee met to help formulate the agenda for the Department's highly successful P2000 Conference held in Portland, Maine, May 17, 2000. The Committee also met twice subsequently to assist the Department in creating a vision and for its Smart Production initiative. The Department will continue to work with the Committee in FFY01 to further the concept of Smart Production with Maine's business community.

The Department also has a 15-member committee, made up of environmental, public health, labor, and business representatives, which provides advice on policy and program implementation for the Small Business Assistance, Pollution Prevention, and Toxics and Hazardous Waste Reduction Programs. The Committee met four times during FFY00.

TIME FRAME:

Most of the strategies and activities listed in this plan are multi-year or continuing tasks. Items scheduled to be completed in FFY01 are noted.

MEASUREABLE OBJECTIVES:**A-1. Customer Service/Satisfaction**

By the year 2001 determine baseline of the percentage of customers who report satisfaction with services received from DEP.

Outcome Measures: (a) survey results; (b) letters from the public; c) customer comment cards; (d) efficiency measures for systems improvements, (e.g. average complaint response time, average permit approval time).

Background: The 1996 report of the Maine Economic Growth Council ("Measures of Growth") provided useful baseline data, reporting that, in 1995, 60% of Maine businesses report no difficulty in obtaining permits, and 32% of Maine citizens rate the value of state service as "good" or "excellent". In the 2000 "measures of growth" report this approval rating increased to 45% for 1999. DEP's customer service/satisfaction objective builds on this, while still recognizing that the Department's "customers" include a broad array of businesses and citizens involved with a host of programs, with permitting just one among many others.

A-1-01. Non-compliance Complaint Tracking System

The DEP maintains a computer database to track concerns of non-compliance registered by citizens. The system is currently used by two of DEP's ten primary compliance monitoring units. Implementation of this complaint tracking system in all regulatory programs should further efforts to expeditiously handle citizen tips of alleged non-compliance.

A-1-02. Internal Customer Satisfaction

Continue to monitor the extent to which DEP staff think their skills are fully and appropriately utilized, and, identify areas where teams are needed to identify and recommend improvements in processes, skills and/or internal systems.

A-1-03. External Customer Satisfaction

Continue distribution and regular compilation of customer survey cards through all licensing and compliance programs with customer contact, and provide regular reports of results to DEP managers. Ensure that customer surveys are distributed through the broad array of DEP programs, not only in conjunction with permitting and compliance activities.

A-2. Data Management

By the year 2003, complete phase one of the integration of facility related data to enable cross program analysis of environmental data and public access.

Outcome Measures: (a) Implementation of Common Identifier Repository; (b) Number of transactions submitted electronically; (c) Deployment of department-wide GIS; (d) Public access to key environmental data

Background: The cornerstone of measuring discharges or the health of our environment is sound science based on accurate data. Our goal is to make the data collected available to the public to build their confidence and knowledge about the state of the environment and its protection. Public awareness is an important factor to drive environmental compliance, and essential if we are to move to market-driven environmentally sustainable business systems. In order to achieve our goal, the data must be rigorously reviewed for accuracy and presented in a way that is easily accessible and understandable to less sophisticated users. These users must be able to combine data from multiple programs for a single facility or a geographical location of interest.

Current Department databases were designed to support individual business programs (e.g. Application Tracking, Oil Spills, Underground Tanks, Wastewater Discharges, RCRA Clean-up, and Air Emissions Point Sources). Each business program typically has its own methods of data collection, databases, means of reporting to USEPA and methods of access that are used exclusively by program related staff. Data about facility name, ownership, location, etc. is duplicated in each database, and there is little ability to link information from multiple programs together to analyze or report on the totality of activities at a given site or facility.

This project is a major, multi-year effort to reconstruct and integrate our databases, develop common data collection methods and support wider access to environmental data. GIS technology will be used to help access and visualize complex information. Much of the work will be directed toward normalizing and cleaning existing data and putting into place long-term data management and Quality Assurance/ Quality Control procedures. We will document and manage these data as departmental assets and make them widely available within the department and to the public.

The Maine Legislature has appropriated \$520,000 in FFY01 to start this project. The Department will receive a \$500,000 One Stop Grant from USEPA to accelerate the pace of development and carry the work through FY03. In FFY01, we will use \$50,000 in PPG funds to complete the project planning and issue contracts to implement the first phase.

A-2-01. Common ID Repository and Database Integration

The first phase of the project consists of developing a Common Identifier Registry (CIR) to manage common facility/site information, modifying the existing Groundwater and Toxic Use Reduction databases and creating new databases and applications to integrate license/permit and compliance data across business programs.

Future phases will address modifying other databases and applications to work with the Common Identifier Registry and provide access via the Internet. We also expect to work with the Department of Professional and Financial Regulation and other agencies to utilize common systems to integrate professional licensing information.

A-2-02. Electronic Data Collection

The goal of this project is to capture transactional and reporting data in a digital form as close to the source as possible and automate the transmission, validation and entry of this data into Departmental databases. The Department intends to provide its reporting sources with tools to assist in data preparation and validation and to accept transmissions via the Internet with direct entry into target databases.

The initial phase of this project includes:

- Convert Groundwater Electronic Data Transfer pilot to full production
- Develop or purchase and customize a database and client package for air facilities and waste water treatment plants
- Develop a collection system for the Toxic Use Reduction program
- Inventory and evaluate other repetitive reporting forms for automation (Make all forms accessible for down-load via the Internet.)
- Implement the Assessment Database system (ADB) for electronic 305(b) waterbody assessments during FFY01.
- Begin using standard Grants Reporting and Tracking System (GRTS) during FFY01.

A-2-03. GIS for Decision Support and Data Access

Geographical Information System (GIS) technology is central to the efficient and effective conduct of much department work. We plan to make these tools available at the desktop so that staff can access environmental data based on location, analyze complex environmental questions and situations and visually portray results as maps and diagrams.

In FFY01, we plan to accomplish the following:

- Migrate users from ArcView to ArcInfo 8 standard GIS products,
- Upgrade the server infrastructure needed to deploy GIS products and applications to all department offices,
- Develop an Atlas Creation and Print System for producing thematic maps,
- Convert the Marine Oil Spill Information system to the ArcInfo 8 platform,
- Develop data forms for accessing groundwater databases via a GIS user interface (THUGS),
- Collect spatial locations of priority environmental features to enable GIS access.

A-2-04. Making Data Widely Available

We are working to make the department's data holdings available to staff, interested parties and the public in as transparent a way as possible. Environmental policy and facility compliance can be greatly improved by giving all parties access to timely, accurate and relevant data.

In FFY01, we plan to make the Toxic Use Reduction (TUR) annual reports available on the Internet. We will continue current in-house efforts to publish summary data and information over the Internet via our departmental and bureau web pages including the ability to download all departmental forms. We will also work with InforME to identify other potential areas to be mined. We will extend the access to central GIS databases to all department office locations and enable staff to share projects.

In FFY02, as other departmental data becomes better organized and cleaned up to support publication, we will work with stakeholders to address relevant reporting products. These may include the status of permits and applications, the location and type of oil and hazardous material spills, and electronic copies of major permits.

In FY03, we plan to address storing and managing internal documents as electronic images in order to make the information more widely available to staff and the public and to reduce the space needed for file storage.

A-3. Administrative Support

Make continuous improvements in the productivity of departmental resources.

Outcome Measures: (a) Stable funding mix for overhead accounts; (b) % of fees collected on time; (c) Regular replacement of IT infrastructure

Background: The Department carries out many day-to-day administrative and support tasks that are needed to support critical business functions. This initiative will carry forward the work started under the Productivity Task Force in 1996. There are still several areas where we can streamline business processes and reduce our administrative overhead.

A-3-01. Balance Funding Mix for Overhead Accounts

Through the early 1990s, the General Fund share of DEP's funding mix declined from 35% to 11-13%. The General Fund currently supports the salaries of 20% of DEP staff. DEP's dedicated and federal fund sources have been inelastic and targeted to specific functions. These non-General Fund revenues cannot continue to bear the cost increases experienced in certain core programs such as information technology, stipends, wage and insurance increases, and other areas without reducing mission capacity. The Department is seeking to improve the funding mix by restoring General Fund support.

For policy coordination and support services, the funding mix issue is particularly severe. Only 6 of 38 positions (16%) are supported by the General Fund, and only 14% of total administrative operating expenditures are General Fund supported. The remaining costs are covered from indirect costs charged to federal and dedicated program funds, consistent with federal regulations. An increase in General Fund support for administrative costs would help to reduce the indirect costs charged and allow more funds to be spent directly on programs. Currently, DEP has no General Fund support for information technology operating costs, even though 20% of its staff are supported by the General Fund.

A-3-02. Automate Key Administrative Functions

We are developing a set of electronic billing and collection functions to better manage our fee-based revenue stream. The Department depends heavily on revenues from fees collected by many individual regulatory programs. In the past, each program set up and managed its own systems and procedures for projecting, billing and collecting these fees. The Department is developing a common infrastructure and procedures to support the electronic generation of bills using the State's accounts receivable (RE) system. We are moving payment and collection processing functions to the ACE Service Center and developing an electronic cashbook to streamline payment processing.

The Department of Administration and Finance is leading the development of several systems that promise improvements in business administration. We plan to participate fully in their development and implementation and will work to ensure that they integrate with our departmental systems. Components identified for implementation include:

- New budget system (FFY01)
- Time and attendance reporting (FFY01)
- Training management system (FFY01)
- Receive credit card payments (FFY01-02)
- ERP replacement for MFASIS accounting system (FFY03)

A-3-03. Maintain and Enhance the IT Support Infrastructure

Department staff are heavily dependent on the use of information technology to do their daily work. They manage voluminous amounts of data dealing with environmental quality and the emission/discharge of pollutants. They review hundreds of license and permit applications, many of which require management and analysis of data to determine potential impact on the environment. They strive to keep up with the latest science to establish a firm basis for regulations, permit conditions, program planning and enforcement decisions. These demands require the Department to make continuous improvements to the technology and techniques we employ.

We are working to establish firm funding for the regular upgrade and replacement of IT equipment. Our goal is to implement a plan to allocate regularly recurring resources that are sufficient to keep our basic IT infrastructure current. This includes funding for the annual costs of WAN and enterprise IT charges and the regular replacement of desktop, network and server hardware and software. We are also working to improve the value per unit cost of IT development and support services.

A-4. Environmental Stewardship

By the year 2002, 25% of Maine residents will report that they participate routinely in environmental programs or activities, up from a baseline of 12% in 1996¹, and the number of business participants in environmental excellence initiatives will show a sustained upward trend.

Outcome Measures: (a) percentage of Maine residents reporting participation in voluntary environmental activities; (b) participants in Department volunteer activities; (c) voluntary compliance data; (d) number of participants in “environmental excellence” programs; (e) number of attendees registering comments or requesting further information on comment cards distributed as part of Department outreach initiatives.

Background: As pointed out in the Introduction to this plan, the nature of environmental protection in Maine is changing. Increasingly, efforts must be aimed less at large, discrete polluters like paper mills, factories, landfills, and other stationary sources, and more toward decentralized, diverse and diffuse individual sources like automobiles, residential septic systems and fertilized front yards – more than previously understood, environmental protection must begin at home.

In recognition of this, the Department’s ultimate goal is a Maine in which natural resources are protected because they are never under threat – where public responsibility for the protection of the state’s resources is sufficiently widespread that environmental regulations are widely supported and willingly met. By stating the outcome in terms of “environmental stewardship” we attempt to capture this sense of willing public concern and shared responsibility. Its measure is apparent in the percentage of Mainers who report participation in some form of voluntary environmental activity. We hypothesize a relationship between these self-reported actions and the level of public understanding and support for environmental protection.

¹A total of 12% of respondents to the Maine Development Foundation's 1996 survey of Maine residents responded affirmatively to a question posed by DEP, to gauge this level of "stewardship".

A-4-01. Smart Production Initiative and Environmental Excellence

Smart Production, an initiative which began in 2000, is the leadership-driven integration of business objectives and environmental objectives into an operation's essential purpose. It looks at the production process as an integrated system, seeking at the same time, both business and environmental innovations to gain competitive advantage. Environmental objectives are not an "add on" to the business purpose, but rather an essential part of it. We will work with Maine's business and environmental communities to infuse the concepts of Smart Production into the strategic planning of Maine businesses. We will continue to recognize efforts of Maine businesses for their contributions to protecting the environment, and for persistent progress toward the goal of sustainability.

A-4-01-a. Smart Production

By working with the Smart Production Advisory Committee (which is comprised of 22 people from Maine government, business, and environmental communities and representatives from Region I EPA) we will create a vision of what constitutes Smart Production and work with Maine's business community to infuse Smart Production goals and concepts into strategic business planning.

A-4-01-b. Environmental Management Systems/Performance Track

Provide DEP support to review proposals, audits, and reports generated as a result of existing and future Environmental Management System pilots and Performance Track projects. Provide DEP review of innovative environmental proposals generated by Maine facilities.

A-4-01-c. Awards

Recognize Smart Production initiatives undertaken by Maine businesses, individuals and communities as a new category eligible for the Annual Governor's Environmental Excellence Awards program.

A-4-02. Volunteer Monitoring Programs

Following the model of the successful volunteer monitoring efforts on Casco Bay and on Maine lakes, continue and expand volunteer monitoring programs to other watersheds, other geographic areas and other media (air, land use).

A-4-03. Education and Outreach

The Department maintains an Education and Outreach ("E&O") unit within the Office of the Commissioner. The E&O unit works with all bureaus to offer education and outreach as a means of helping the public understand, support, and comply with environmental laws, and to teach responsible environmental stewardship.

This cooperative system has all Department staff delivering education and outreach on a daily basis and is the cornerstone for minimizing adverse environmental impacts and preventing environmental violations. These efforts range from holding seminars that provide wide segments of the population with general information to targeting particular facilities, locations, ecosystems, business sectors, and individuals. We will provide a comprehensive program of public education, consisting of materials, educational events and involvement opportunities, and timely environmental information on the Department's website to educate Maine citizens about the state's environmental issues, the implications of those issues, and the steps they can take to address the issues of concern to them.

A-4-03-a. Identify Priority Issues

Identify environmental issues and prioritize them so that resources can be focus on providing relevant public information.

A-4-03-b. Comprehensive Education Program

Coordinate educational activities to develop a comprehensive program of public education.

A-4-03-c. Multiple Tools

Utilize agency-organized educational events, informational exhibits and materials developed by Department and through collaboration with other entities, and staff participation in statewide outreach opportunities.

A-4-04. Citizen Involvement

Conduct a statistically valid survey of the general public to assess the involvement of Maine residents in environmental organizations, programs or activities.

A-5. Pollution Prevention

By the year 2006, the State will achieve a 60% reduction in the use of Extremely Hazardous Substances, a 60% reduction in Hazardous Waste generation and a 60% reduction in TRI releases.²

Outcome Measures: TUR program database

²Based on the 1990 use of Extremely Hazardous Substances, the average of 1987/1989 hazardous waste generation and the average of 1990/1991 toxic releases in Maine.

Background: The Department maintains an Innovation and Technical Assistance ("I&TA") unit within the Office of the Commissioner. The I&TA unit works with the department bureaus to target technical assistance to help solve environmental problems at a particular location. Technical assistance can take the form of process consultation and advice in manufacturing or commercial operations aimed at reducing adverse environmental impacts through pollution prevention. It may be done informally as part of an inspection or telephone call, or more formally through one of the I&TA's technical assistance programs and designated technical assistance staff in the bureaus.

A-5-01. Compliance Assistance and Pollution Prevention

Implement a range of programs that encourage voluntary compliance with environmental regulations, provide incentives to exceed minimum requirements, and/or encourage non-regulated activities that result in environmental benefit.

A-5-01-a. Small Business Assistance Program

Provide focused compliance and pollution prevention assistance to Maine small businesses that use extremely hazardous substances, generate hazardous waste, and/or release TRI chemicals. Businesses include solvent users, surface coaters, wood products manufacturers, metal platers, dry cleaners, printers, hospitals, composites, public facilities and businesses subject to state and federal regulations. Assistance may be provided through printed information, seminars or on site visits.

A-5-01-b. On-Site Assistance Program

Provide on site compliance and pollution prevention assessments to any business or regulated entity that requests regulatory or P2 assistance. Specifically, target those businesses in the metals and wood products industry, and sectors with documented compliance problems.

A-5-01-c. Partnering

Partner with business sector, environmental groups, and other stakeholders to create and administer the programs for regulated facilities.

A-5-01-d. Awards. Recognize outstanding pollution prevention projects completed by Maine businesses, individuals and non-profit organizations through the Annual Governor's Environmental Excellence Awards Program.

A-5-02. Smart Production and Consumption

Companies are increasingly redesigning their operations to integrate production and environmental control systems that eliminate waste streams to the environment. Producing “smartly” means not solving one problem for a media only to create another problem somewhere else. We need to create integrated environmental solutions to producing products and providing services. The financial advantages of good environmental stewardship are becoming increasingly clear. An area of opportunity for Department is to take a systemic approach, rather than pollutant by pollutant or purely regulatory approach to tackle priority activities.

A-5-02-a. Zero Discharge

The Department formed an in-house committee to explore the concept of “going to zero discharge” and discussed this goal with members of Maine’s environmental and business communities. Zero discharge is viewed as a goal toward which incremental steps can and should be taken. In the early 1990s, the Department invested a significant amount of its wastewater treatment expertise assisting industries in reducing pollutant loads to our waters. The results were dramatic, and most industries routinely operate well below compliance limits. The Department will develop a multidisciplinary team to provide the same top caliber technical and regulatory assistance to anyone who wishes to go to zero discharge.

A-5-02-b. Hospitals

Maine’s hospital industry wants to act responsibly in dealing with its wastes, but needs assistance. Since medical waste streams have the potential to generate many dangerous substances, including persistent bioaccumulative toxins, it is a logical sector to target. The Department will continue to develop a multidisciplinary partnership with the hospital community to foster leadership in the industry.

A-5-02-c. Composites

From laminated wood to fiberglass to graphite, composites are a growing field. Lighter and stronger with each new generation, they present opportunities like recycling materials and the development of non-toxic matrices. Like the zero discharge initiative noted above, this is an area where the Department can serve as a source of information and expertise to help develop new, cleaner composite technologies. By becoming a resource, we hope to engage the public and the industry in a discussion about what “clean production” means for this sector and how best to achieve that goal. The Department is developing a team dedicated to understanding the needs and technology around composites and a targeted assistance program.

A-5-02-d. Mercury. This persistent bioaccumulative toxin has generated significant interest nationally and in the State of Maine, in part as a result of fish consumption advisories applying to certain species in all freshwater bodies of the State. Maine has two reports detailing what we know about the sources of mercury (*Land and Water Resources Council 1997 Annual Report: Mercury in Maine*) and mercury in our wastewater (*Mercury in Wastewater: Discharges to the Waters of the State, 1999*). In addition, there has been legislation dealing with mercury products, national efforts to reduce mercury emissions from power plants and enactment of universal waste rules to encourage recycling of mercury wastes. The Department has a team dedicated to developing and implementing a comprehensive, interdisciplinary approach to mercury reduction and elimination that reaches individuals, businesses and industries. This effort will be used to pilot an approach that we may be able to use with other persistent bioaccumulative toxins.

A-5-02-e. EPA Environmental Leadership Projects

Provide Department support to perform on site assessments and to review proposals, audits and reports generated as a result of existing and future EPA regional and national initiatives such as *Performance Track, XL (Regulatory Flexibility Program)*, and *NEEATeam Initiatives*.

A-5-03. Toxics Policy

Implement the State's toxics reduction program.

A-5-03-a. Program Implementation

Major components of the implementation plan include development of a web-based toxics information system that will allow the public to access toxics data by company, location, chemical, and industry sector in graphic, numerical, and map-based formats; and the utilization of an EPA model to evaluate the relative importance of each toxic chemical.

A-5-03-b. Use of Toxic Use Reduction Information

The results of our TUR effort are one of our proudest achievements. The data demonstrates a 22% reduction in extremely hazardous toxic materials used, a 38% reduction in hazardous waste generated, and a 53% reduction in toxics released, all since 1990. The newly reenacted TUR law keeps the program going and sharpens our ability to effectively use the information that is created. Internet availability of toxics information will allow the public to more actively engage in the process of toxics reduction. We will now be able to sort data on different types and volumes of toxics and facilities. It gives us a tremendous tool to focus our education, assistance and compliance efforts to get the biggest bang for the buck.

A-5-04. Pollution Prevention and Environmental Management System Education

Provide pollution prevention and environmental management system education to DEP staff, the regulated community and the public through initiatives emanating from the Office of Innovation and Technical Assistance and through coordination with the other strategies in the PPA that explicitly include an educational component.

Environmental Management Systems represent a relatively new and promising tool for applying a business systems approach to environmental protection. Whether the internationally recognized ISO 14001 standard or another is applied, Maine companies will likely be better environmental performers and will be able to increase marketing opportunities particularly in European markets. DEP will promote the uses of EMSs within multi-bureau programs, with staff training and within regulatory flexibility projects.

A-6. Quality Improvement

By 2005, Maine DEP will have fully institutionalized a complete range of quality assurance / quality improvement activities, procedures, and systems that meet or exceed applicable Federal standards and, where appropriate, will have met the certification standards of an external quality benchmark.

Outcome Measures: (a) EPA approval of a Quality Management Plan*; (b) implementation of QMP second-level documentation; (c) ISO 9000 (year 2000 standard) or similar certification in one or more program areas.

* = FY 2001 completion

Background: While the Department as a whole benefited substantially from the State Total Quality initiative, and all DEP program areas have addressed quality issues through the use of Standard Operating Procedures, etc., there has not been a consistent institutional approach to quality improvement. In order to ensure that customer service, policy-making and decision-making, resource utilization, and fundamental work processes are continuously improving, the Department committed itself to this effort at the beginning of FFY01.

A-6-01. Quality Management Plan (QMP)

By the EPA mandated deadline of December 31, 2000, submit a complete QMP (first-level documentation) based on good-faith efforts that covers federally funded environmental monitoring and/or environmental data collection programs. This submittal will include a completion schedule for second-level documentation. Compliance with the mandatory deadline requires the deployment of significant monetary and personnel resources between August 2000 and December 2000. Resources necessary to comply with second-level documentation commitments will not be fully understood until the QMP is approved by EPA. As a result, EPA is willing to re-negotiate significant deviation from any commitments made for FFY01 by federally funded programs with monitoring and/or data collection components in order to allow DEP to accomplish this high-priority mandate. DEP will keep EPA informed of any needed deviations as FFY01 progresses.

A-6-02. Continuous Quality Improvement

Identify additional critical opportunities for improvement, and implement specific approaches to meeting resulting goals.

A-6-03. External Audit and Certification

Identify program areas for which ISO 9000 or similar certification would be an appropriate improvement approach. Commit resources necessary to planning for, and achieving, certification.

A-7. CLEAN STATE Initiative

By the year 2002 and in concert with the Department of Administrative and Financial Services, ensure that the State has conducted compliance and management system audits at 50% of State-owned facilities.

Outcome Measures: (a) number of agencies represented in training programs; (b) number of facility audits conducted.

Background: The CLEAN STATE program is derived from a governor initiative to bring all state facilities into compliance with state and federal environmental laws. Several factors prompted it, not the least of which is that the State should hold itself to the same standard as, or to a higher standard than, is applied to those which it regulates. Additionally, the federal government is increasing its scrutiny of segments of state facilities, frequently assessing large monetary penalties against them and requiring accelerated corrective action. Maine believes that a proactive approach is warranted, is cost effective, and demonstrates environmental leadership. In order to accomplish this work, a steering committee has been formed and a charter for the program has been developed.

A-7-01. Consultant Services

Retain consultant services to provide an array of technical expertise to the Initiative.

A-7-02. Training

Ensure implementation of an effective training program from which attendees can acquire assessment and auditing skills necessary to conduct cross-agency facility and management system audits.

A-7-03. Facility and Management System Audits

Ensure through appropriate incentives that state agencies commit to facility and management system audits.

A-8. Regulatory Compliance

To establish continually improving trends in regulatory compliance rates.

Outcome Measures: (a) Measured compliance rates of air pollution sources required to operate continuous emission monitoring systems and (b) Measured compliance rates of publicly owned treatment works.

Background: Non-compliance with regulatory requirements, such as licensed pollutant release limits, performance standards, reporting obligations or record keeping, undermines the integrity of Maine's environmental protection system and often results in increased pollutant releases that adversely affect human health and the environment. At a minimum, Maine citizens expect DEP to inspire environmental protection and enhancement, promote innovation, provide exceptional customer service, and rely on strong science and state-of-the-art technology that achieves compliance solutions. An effective compliance program promotes compliance, prevents violations, and pursues timely, consistent and equitable resolutions to non-compliance and applies a multi-program approach to non-compliance to holistically solves problems.

The DEP uses a variety of options to encourage regulated entities to achieve compliance. These options are used to avoid as well as resolve compliance problems. In each particular circumstance, the DEP evaluates the facts and exercises its discretion to determine which option or combination of options is appropriate to achieve compliance with environmental requirements. The result is a consistent and predictable compliance approach that retains enough flexibility to deal with the unique facts of a particular case or sector.

A-8-01. Education and Outreach

All DEP compliance staff delivers education and outreach on a daily basis as the cornerstone for minimizing adverse environmental impacts and preventing environmental violations. The E&O unit is used to educate the public about new regulatory requirements and assemble materials to address commonly observed violations. Each program specific compliance plan includes education and outreach activities aimed at achieving compliance.

A-8-02. Technical and Regulatory Assistance

Technical consultation and advice on manufacturing or commercial operations that reduces adverse environmental impacts through pollution prevention is the DEP's preferred compliance option because it can use pollution elimination as the method of achieving compliance. It may be done informally as part of an inspection or telephone call, or more formally through one of the I&TA's technical assistance programs. Regulatory assistance, i.e. helping entities to understand regulatory requirements, is also a primary focus of the DEP and available as part of our daily activities. In the event of a violation, technical and regulatory assistance may be provided by bureau or I&TA staff to most efficiently remediate and correct the violations at issue. Each program specific compliance plan details technical and regulatory assistance activities aimed at gaining and maintaining compliance.

A-8-03. Compliance Evaluations

The core activity in all DEP regulatory programs is evaluating compliance with licensed pollutant release limits, performance standards, reporting obligations, and record keeping requirements. These evaluations are performed as on-site inspections at regulated facilities or are based on the review of data submitted to DEP by regulated entities. Each program specific compliance plan includes compliance evaluation activities. A core responsibility that resides in the Office of the Commissioner is coordinating multi-program compliance evaluations. Each program specific compliance plan details compliance evaluation activities.

A-8-04. Enforcement

A variety of enforcement tools exist to resolve non-compliance, including verbal and written entity notifications that include compliance schedules, and pursuing written legally binding resolutions where corrective action and/or penalties are appropriate. The DEP selects an appropriate course of action for enforcing Maine's environmental requirements based upon the facts of a case and the *Considerations for Determining Appropriate Responses* contained in our DEP-wide Compliance Policy (effective June 1, 1997). As a result, the DEP may use any one enforcement option, or a diverse combination of compliance options, as each is appropriate to address a non-compliance situation. Where written binding resolution is necessary in a civil case, the DEP will ensure that it: remedies environmental damage; restores natural resources to appropriate conditions; and, imposes penalties that are consistent with assessment policies, capturing any economic benefit gained by a violator and deterring similar actions in the future. The cross-program responsibilities for case review, multi-media action coordination, and review of all proposed resolutions are performed by the DEP Enforcement Director. Each program specific compliance plan details its strategy for addressing situations where enforcement is necessary.

A-8-05. Significant Non-compliance

In accord with the U.S. EPA's national enforcement policies, DEP programs funded to enforce the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act must identify and address significant non-compliers. To this end, the DEP commits to: (1) undertake targeting strategies and inspection protocols designed to identify significant non-compliance; (2) identify detected significant non-compliers in national enforcement databases; (3) communicate and coordinate with EPA on enforcement actions undertaken in response to significant non-compliance; and (4) address these identified facilities when DEP efforts as lead enforcer are appropriate with enforcement responses sufficient to ensure compliance and recovery of penalties. Each program specific compliance plan details its strategy for addressing situations where significant non-compliance exists.

B. AIR QUALITY

GOAL: To ensure and enhance clean air for people, plants and animals, so that all can breathe and thrive in clean air every day of the year, in every part of the State.

OVERALL PERFORMANCE BUDGET OBJECTIVE:

By 2004, improve air quality so that all Mainers can breathe clean air every day of the year.

ISSUE STATEMENT:

Although "clean air" is one of the commodities that attracts people to the State of Maine, the State in fact has some significant air quality problems. In the past, the state exceeded acceptable levels for particulates, sulfur dioxide, carbon monoxide and ground-level ozone, but the Department's subsequent control strategies were successful in achieving attainment for all of the pollutants except ground-level ozone in the southern portion of the State. Future efforts will focus on: 1) achieving attainment of the eight-hour ground-level ozone standard by 2004; 2) maintaining all other existing air quality standards; and 3) achieving reductions of 212 hazardous air pollutants, including mercury, for which no standards currently exist. The Department will also continue to expand its knowledge on air pollution source contribution with their corresponding impact on Maine's air quality. These sources include *transported air pollution* from other states; *in-state area sources*, such as vehicles, painting and surface coating operations; and *in-state stationary sources*, such as mills or factories. The variety of sources, limited knowledge and other complex air quality issues have resulted in the need to improve customer understanding through increased public outreach and education, pollution prevention and compliance assistance.

FUNDING SOURCES:

In FFY00, funding to support programs came from the following sources: State General (\$941,324; 23 %), Federal PPG (\$1,119,098; 28%), and Maine Environmental Protection Fund (\$1,966,737; 49%).

RECENT PERFORMANCE:

During FY00, the Department continued to make progress in its efforts toward providing clean air to all its citizens. Maine, as a result of its efforts over the last twenty years, has attained and maintained the National Ambient Air Quality Standard (NAAQS) for all criteria pollutants except ozone. By adopting and implementing most elements of a 15% Volatile Organic Compound (VOC) reduction plan (15% Plan)³ and meeting the nitrogen oxides (NOx) RACT requirements (Reasonably Available Control Technology requirements in those counties not receiving a section 182(f) NOx waiver), the State has taken major steps to meet the ozone standards (required by statute).

In January of 2000, the Department began implementing its Heavy Duty Diesel (opacity) testing program, requiring mandatory compliance with the opacity standard. Failure to comply with the opacity standard could result in fines up to \$500.

Maine has also implemented an Inspection and Maintenance (I/M) program for automobiles and light trucks. On January 1, 1999, Maine implemented the first phase of our Ozone Transport Commission (OTC) low-enhanced I/M requirement, and on January 1, 2000, began testing vehicles with phase II on-board diagnostics (OBD II). Although all OBD II equipped vehicles were tested during calendar year 2000, repairs will not become mandatory until January 1, 2001. Maine has submitted its I/M program to EPA to inclusion in the State Implementation Plan (SIP), and is awaiting EPA approval.

In addition, Maine has fully supported and will benefit from the efforts of the OTC to develop a regional nitrogen oxide control (NOx) program along with additional VOC and NOx control strategies for reducing ground level ozone. The Department has proposed a regulation to implement the Ozone Transport Region NOx Memorandum of Understanding. The proposal will require electrical generating units, resource recovery units and major industrial sources to implement additional NOx controls on a year-round basis beginning January 1, 2003. Maine has also continued to participate in the development of regional solutions to transboundary mercury and acid rain pollution in collaborative efforts with northeastern states and eastern Canadian provinces.

³ In March of 1999, Maine opted-out of the federal reformulated gasoline program. As a result of this action, the Department was required to revise its 15% Plan for York, Cumberland and Sagadahoc counties.

COMPLIANCE

For stationary source compliance program activities completed in FFY00, compliance staff in the Air Bureau's Field Services Division continued to use AFS as their primary tracking database. Staff in the Enforcement Unit used the system to record all Notices of Violation issued and Administrative Consent Agreements finalized. The compliance program recorded 380 actions in AFS relating to these sources. The "action types" recorded in AFS are listed in Table 1.

Table 1: Actions Recorded in AFS for FFY00

ACTION DESCRIPTION	NUMBER OF ACTIONS
Inspections	263
Emission Test Observations	36
CEM QA Observations	26
Letters Of Warning	20
Multimedia Inspections	6
Follow-up Correspondence	4
Performance Test Observations	3
Samples Taken	3
Facilities Licensed	1
Violation Addressed	1
Notices of Violation	8
Consent Agreements	9

The field activities recorded in AFS show the FFY00 compliance rate at 82%; conversely the rate of violations was 18%. The percentage of facilities found in compliance was less than FFY99 when an 88% compliance rate existed.

During the inspections, all facilities were generally discovered in compliance with PSD/NSR requirements. As part of a national EPA initiative, compliance staff assisted with two (2) PSD/NSR investigations at pulp and paper facilities. Although EPA Region 1 staff have not published final results of the investigations, preliminary findings at the time of investigation were that significant PSD/NSR avoidance was not found.

Compliance staff and the stack testing coordinator observed 29 RATAs, CGAs and performance tests. Of these, one (1) was in violation of emission limits or monitor requirements. At the time of this writing, enforcement staff was handling the violation.

Due to problems setting up the Y2K compliant version of PCEMS in the Bureau, and to the loss of a computer hard drive, PCEMS records are not available at the time of this writing. The missing records are being retrieved from the versions of PCEMS located at the regional offices and will be available later in 2001.

In FFY00 the Compliance Staff observed 36 emission tests. Only one (1) of the tests measured pollutants in excess of emission limits. Enforcement staff is handling this violation.

Compliance Staff reviewed Title V Compliance Certifications from approximately 12 facilities in FFY00. Since this was the first year that these reports have been required it was a learning process for both the staff and the facilities. In the coming year, certification reviews will be tracked in AFS. Outreach material is being improved in FFY01 to clarify the information that the Department requires.

In addition to the activities conducted with stationary sources, compliance staff conducted 113 inspections at Stage I gasoline-dispensing facilities, with one (1) Letter of Warning sent for a violation of Stage I standards. Additionally, 59 inspections at Stage II facilities were conducted, with two (2) Letters of Warning sent for violations of those standards.

With regard to facilities regulated for Hazardous Air Pollutants, staff conducted 29 inspections at dry cleaning facilities, with four (4) Letters of Warning sent for violations. Saco Defense, Maine's only facility regulated under the Chrome MACT, was inspected once, and found in compliance with air emission requirements but some general improvements were suggested for its environmental program. Possible violations of the State's hazardous waste rules at Saco Defense were referred to the Bureau of Remediation and Waste Management.

In FFY00, compliance staff conducted 3 inspections at HoltraChem, the largest single potential source of mercury emission in the State. The inspector responsible for the facility underwent special safety training for work at facilities with a high potential for hazardous conditions.

In the summer of 1999, the Bureau started recording tips and complaints in the Department's Complaint Tracking System (CTS) database. For FFY00, CTS contains 113 complaints, all of which were responded to by compliance staff.

The compliance program worked closely with the Commissioner's Office of Innovation and Assistance to establish a program that promotes Environmental Management Systems (EMSs). A compliance staff person played a lead role in drafting the Department's EMS Policy and proposed legislation. The number of facilities approached about EMS was not recorded, but the concept is known to have been part of compliance inspection follow-up discussion with many facilities.

In FFY00, eight (8) additional gasoline service stations qualified for the Environmental Leader designation. In the fall of 2000, the Department developed and distributed public service announcements to encourage people to use Environmental Leader service stations.

The compliance staff conducted one (1) inspection at Maine's only Star Track facility, International Paper in Jay.

A list of facilities which have a high probability of being affected by Section 112(r) of the Clean Air Act has been developed and will be mailed to EPA Region 1.

Of the 10 significant violators discovered in FFY99, six (6) were addressed in that time period and four (4) were carried into FFY00. Five (5) new significant violators, now classified as High Priority Violators (HPVs), were added in FFY00. Of these, seven (7) HPVs have been addressed. All HPVs currently being addressed have been on that list for less than one-year.

STATUS OF FFY00 PPA:

Most PAA activities are annual, continuing or multiple year efforts. Others had short-term target dates and are on schedule to be finished.

Highlights of short-term activities that have been completed.

The Department proposed regulations to implement the Ozone Transport Commission NOx MOU and held a public hearing on its proposal in January of 2000. Due to overwhelming public interest, the public comment period has been re-opened several times, with the most recent comment period schedule to end on December 1, 2000. The Department expects to conclude rulemaking this winter.

A number of meetings were held with stakeholders to discuss the viability of using 7.2 RVP gasoline; the Department is subsequently determined that the use of this fuel would increase the potential for supply disruptions and amended its regulations to provide for the continued use of 7.8 RVP fuel. The Department has developed a section 211(c) waiver request for the continued use of this fuel, and is working with EPA on the development of an enforcement protocol.

The Department promulgated regulations implementing an on-road diesel testing program, with a mandatory repair requirement. In the first season of testing, over 160 tests were administered with 92 failing vehicles repaired. The Department also organized and held a number of sessions in which more than 320 automobile mechanics were trained in the use of on-board diagnostics (OBD) for emissions testing, which began on January 1, 2000.

In partnership with EPA, the Department carried out the Portland EMPACT ("BEAN") project that measures ambient concentrations of both criteria pollutants and air toxics, including ozone, sulfur dioxide, nitrogen dioxide, benzene, toluene, and formaldehyde. The ambient concentrations of these compounds are reported in real-time to the public through the Department's internet website.

Highlights of changes to plans (extensions, modifications, and deletions).

During FFY00, the Department began the transition from AIRS to EPA's new National Emission Trends (NET) database, but is now awaiting the latest iteration of EPA's electronic database.

The Department continues to implement its Title V Operating Permit Program, and is working to ensure full EPA approval. During FFY00 ten licenses were issued, five sent out for public comment and an additional nineteen licenses have been drafted and are in various stages of review with the facilities. Although the Department is working to issue licenses as soon as possible, it is unlikely that all outstanding licenses will be issued prior to January 31, 2001. The Department is also working to secure delegation of all outstanding NSPS and MACT/NESHA standards for those source categories for which Title V sources exist in the state. To this end, we have hired an additional engineering position and are currently drafting regulatory amendments.

All single source VOC RACT SIP revisions have now been submitted to EPA, but several may need to be amended in order to receive final approval. The Department is working with EPA to resolve these outstanding issues and finalize all source-specific SIP revisions.

PUBLIC PARTICIPATION:

The Department recognizes the need to increase public participation in the development and operation of our air quality programs. Our ability to rally public, industrial, and legislative support for both our overall air program goals and individual programs actions is critical to our success. Programs that must be implemented to achieve attainment with the new ozone, particulate matter and visibility standards will be stressful to many sectors of our economy. Public understanding of the need for these programs will be necessary to achieve their acceptance.

We have already initiated efforts to provide increased public participation. The Regional Ozone Committee stakeholders group, which is composed of citizens groups, environmental organizations, legislators and the regulated community, convenes on a regular basis to advise the Department on air program policy issues and decisions. The Committee has provided valuable input on a variety of issues by serving as a “sounding board” for our planning efforts.

The Department works closely with other stakeholders. The Maine Board of Environmental Protection, our citizen oversight board, has played an increasingly important role in the development of our programs, and is able to provide a unique perspective on a variety of issues. Informally, we have cultivated positive working relationships with representatives of diverse groups and interests ranging from industrial trade organizations to environmental groups. At the same time, we are seeking to substantially increase the general public’s participation in our program development activities. Expanding our education and outreach efforts to provide greater public access to technical materials will facilitate greater public involvement in the development of our programs, and ultimately foster increased public support for our work.

TIME FRAME:

Most of the strategies and activities listed in this plan are multi-year or continuing tasks. Items scheduled to be completed in FFY01 are noted.

MEASURABLE OBJECTIVES:

B-1. Ground-level Ozone

By 2004, ground-level ozone will be reduced to the level needed to meet or maintain a concentration of 0.08 parts per million within the entire State of Maine.

Outcome Measures: average 4th highest ozone concentration in parts per million at each ambient ozone monitoring station.

Background: Ground-level ozone is formed through a chemical reaction in the presence of sunlight between volatile organic compounds and nitrogen oxide, which are known as ozone precursors. Ozone precursors are emitted from a number of sources, especially those involving combustion processes, such as utilities, manufacturing companies with boilers, and motor vehicles. Ozone levels are measured at eleven monitoring sites located in eleven of Maine's sixteen counties. Under the 1990 Clean Air Act Amendments, the State of Maine had nine counties classified as having unacceptable levels of ozone in the air.

Seven of these counties (York, Cumberland, Sagadahoc, Kennebec, Knox, Lincoln and Androscoggin) were classified as moderately unhealthy areas, while Hancock and Waldo counties were classified as marginally unhealthy areas. Since that time, Hancock and Waldo counties have been redesignated to "attainment" of the one-hour ozone National Ambient Air Quality Standard (NAAQS), and Kennebec, Knox, Lincoln and Androscoggin counties have been meeting the one-hour ozone standard since 1993. York, Cumberland and Sagadahoc were meeting the one-hour ozone standard based on 1996 through 1998 monitoring data, only to fall out of compliance based on 1997 through 1999 monitoring data.

After an extensive research and scientific review process, EPA issued a new more health protective standard for ozone on July 15, 1997. The new eight-hour ozone standard of 0.08 parts per million is based on the average of the 4th highest eight-hour averages over a three year period, and better measures total ozone exposure. In 1999, EPA revoked the one-hour ozone standard for all areas which were meeting the one-hour standard in an effort to facilitate the transition to the eight hour standard; the one-hour standard was revoked on a statewide basis in 1999. Due to a decision by the U.S. Court of Appeals for the District of Columbia, EPA has now reinstated the one-hour ozone NAAQS.

Based on monitoring data for the period from 1997 through 1999, portions of York, Cumberland Sagadahoc and Hancock counties are violating the eight-hour ozone NAAQS⁴. With the reinstatement of the one-hour standard, York, Cumberland and Sagadahoc Counties will once again be classified as moderate nonattainment⁵, and will need to meet all Clean Air Act requirements under section 110 (Implementation Plans) and Part D (Plan Requirements for Nonattainment Areas) of the Clean Air Act Amendments of 1990.

⁴ There were 11 exceedence days for the eight-hour ozone standard in 1999.

⁵ Based on 1997 through 1999 monitoring data. Based on the (incomplete) 1998 through 2000 monitoring period, these counties are meeting the one-hour ozone NAAQS.

Maine expects to attain and maintain the one-hour ozone standard on a statewide basis beginning in 2001 through a combination of in-state and upwind emission control programs. The ground-level ozone objective and the 2004 target for the eight-hour ozone standard are based on the implementation of Maine's state regulations for air quality controls, and additional controls for Maine's up-wind neighbors, which are in nonattainment of the federal ozone standard, and impact Maine.

Determining success in achieving the objective is based on ground-level ozone monitoring data, the compilation of data on emissions from sources of volatile organic compounds and nitrogen oxides, and modeling results. The state network of ozone monitors and the database on emissions from sources of volatile organic compounds and nitrogen oxides provide historic and current information on ozone levels in the state. A non-controllable variable that affects the success in achieving this objective is the weather. Weather conditions such as high temperatures increase the amount of ozone formed, which leads to more exceedances and unacceptable levels of ozone.

B-1-01. Non-regulatory Programs

Develop and implement a public education, pollution prevention and innovative-technology assistance program that targets ground-level ozone and the control of its precursors, nitrogen oxides and volatile organic compounds, in order to meet or maintain a concentration of 0.08 parts per million within the entire State of Maine.

- Partner with business sector, environmental groups, and other stakeholders to create and administer programs for oil wholesalers/jobbers and gasoline dispensing facilities.
- Expand education and outreach efforts to provide greater public access to technical materials including monitoring data, emissions inventory data and air emissions licenses.
- Continue to support regional ozone forecasting and outreach efforts by sending hourly ozone data and daily forecasted Air Quality Index information to EPA.

B-1-02. Monitoring and Database Development

Continue to monitor outdoor air for ground-level ozone and its precursors, nitrogen oxides and volatile organic compounds, through a statewide network of air quality monitors, and continue to maintain the database on the nitrogen oxides and volatile organic compounds that are released from new and existing area, point and mobile sources. Priorities for FFY01 include: development of a comprehensive statewide area source emissions inventory; operating an approved NAMS/SLAMS/PAMS air monitoring network with a minimum of 75% data capture and submission of air quality, precision, and accuracy data to AIRS within 90 days of the end of each quarter; purchase monitor equipment replacements and update the equipment inventory/assessment as part of the five year monitor replacement program; continue assessment activities with NAMS/SLAMS/PAMS/SPM data; provide an annual monitoring review detailing any proposed changes and revise the criteria pollutant QAPP to meet current requirements in QAR5 and update the PAMS QAPP as necessary.

B-1-03. Regional Activities

Identify and implement appropriate regionally-consistent strategies to reduce ground-level ozone and its precursors, nitrogen oxides and volatile organic compounds, transported from out of state, in order to meet a concentration of 0.08 parts per million within the entire State of Maine. Strategies will include collaborative efforts with federal, state and other governmental agencies, particularly the Ozone Transport Commission and the Northeast States for Coordinated Air Use Management (NESAUM).

B-1-04. In-state Reductions

Reduce through regulatory programs, market-based strategies, and voluntary measures the amount of nitrogen oxides and volatile organic compounds that are released from new and existing area, point and mobile sources, necessary to meet or maintain a concentration of 0.08 parts per million for ozone within the entire State of Maine.

- Special emphasis will be placed on control programs and/or strategies providing multi-pollutant and multi-media benefits.
- Priorities for FFY01 include completion and submission of an updated 15% Rate of Progress Plan and Attainment Demonstration for York, Cumberland and Sagadahoc counties, re-designation of the Portland non-attainment area from non-attainment to attainment for the one-hour ozone standard; and completion of the process for either designation or non-designation for the eight-hour ozone standard. Based on the 1998 through 2000 monitoring period, these counties are meeting the one-hour ozone NAAQS.

- These submissions will no longer be required upon EPA's final determination of "clean data." Also submission of program revisions necessary for final approval of the Title V Operating Permit Program; submission of a revised Stage II comparability demonstration; completion of more stringent NO_x control requirements for power plants and major industrial sources; submission of a section 211(c) waiver request for the use of 7.8 RVP fuel in southern Maine; full implementation of the I/M program (including OBD2) as of January 1, 2001; and receiving final approval for all source-specific VOC RACT orders.

B-2. Outdoor Air Quality Standards

Mainers will continue to benefit from clean air, as Maine's air quality will remain in compliance with certain outdoor air quality standards. By the end of each calendar year, no more than one exceedance of Maine's existing outdoor air quality standards for lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulate matter, toluene, and perchloroethylene will have occurred⁶.

Outcome Measures: Number of exceedances in the outdoor air quality standards for lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulate matter, toluene, and perchloroethylene, as documented by ambient air quality monitoring.

Background: Maine currently meets the standards for all of the pollutants listed in this objective (for the specific levels of each pollutant, please see the Technical Note on Air Quality appended to this Plan). In the past, however, air quality in parts of the state exceeded the standards for particulates, sulfur dioxide, and carbon monoxide (more detail about the sources of these pollutants, and the number of recent exceedances, is also included in the Technical Note on Air Quality.) This objective is derived from the federal Clean Air Act requirements and state law. The intent of this objective is to continue meeting each of the standards at the end of each calendar year.

Control strategies developed by the Department have enabled these standards, and the standards for the other pollutants, to be met or maintained. As a result of these measures, Maine sources (large and small) now comply with many new control requirements, and we expect the total tonnage of stationary source nitrogen and sulfur oxides emissions to continue to decline from the 1998 baseline of 70,450 tons.

⁶See the Technical Note on Air Quality in Appendix B for further information regarding the specific standards that apply to each of these pollutants.

Maintenance of strategies to continue meeting the standards is essential to the continued protection of public health and the environment, as well as necessary to achieve the objective. Determining success in achieving the objective will be based on the ambient monitoring database for the appropriate year and by applying a methodology for determining exceedance contained in state law (Title 38, Chapter 4 of the Maine Revised Statutes Annotated). The outcome of this objective generally depends on the ability to control out-of-state sources of air pollutants.

B-2-01. Non-regulatory Programs

Develop and implement a public education, pollution prevention and innovative technology assistance program that targets lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulates, toluene, and perchloroethylene emissions, in order to meet or maintain the state air quality standard for each pollutant within the entire State of Maine. Expand education and outreach efforts to provide greater public access to technical materials including monitoring data, emissions inventory data and air emissions licenses.

B-2-02. Monitoring and Database Development

Continue to monitor outdoor air for lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulates, toluene, and perchloroethylene through a statewide network of air quality monitors, and continue to maintain the database on these pollutants that are released from new and existing area, point and mobile sources. Provide daily reporting of PM fine data to EPA. Priorities for FFY01 include: development of a comprehensive statewide area source emissions inventory; operating an approved NAMS/SLAMS/PAMS air monitoring network with a minimum of 75% data capture and submission of air quality, precision and accuracy data to AIRS within 90 days of the end of each quarter; purchase monitor equipment replacements and update the equipment inventory/assessment as part of the five year monitor replacement program; continue assessment activities with NAMS/SLAMS/PAMS/SPM data; provide an annual monitoring review detailing any proposed changes; revise the criteria pollutant QAPP to meet current requirements in QAR5 and update the PAMS QAPP, as necessary; continue operation of a PM2.5 monitoring network including continuous and speciation samplers; updating the PM2.5 AQPP as necessary; beginning PM2.5 data assessment activities.

B-2-03. Regional Activities

Identify and implement regionally-consistent strategies to reduce emissions of lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulates, toluene, and perchlorethylene transported from out of state, in order to meet or maintain the state air quality standard for each pollutant within the entire State of Maine. Strategies will include collaborative efforts with federal, state, tribal and other inter-governmental agencies.

B-2-04. In-state Reductions

Reduce through regulatory programs, market-based strategies, and voluntary measures, the amount of lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulate matter, toluene, and perchloroethylene emissions that are released from new and existing area, point and mobile sources, in order to meet or maintain the state air quality standard for each pollutant within the entire State of Maine. Special emphasis will be placed on control programs and/or strategies providing multi-pollutant and multi-media benefits. Priorities for FFY01 include the development of an output-based emissions performance standards program for suppliers of electricity.

B-2-05. Standards Setting

Develop and implement new air quality standards necessary to protect public health, safety and welfare, as indicated by outside air monitoring results, and the assessment of federal rules and health impact studies.

B-3. Non-criteria Pollutants

By 2005, reduce the probability of health effects on Maine citizens, through reduction in the total mass emissions of non-criteria pollutants⁷, as listed in Chapter 137 of the Department's regulations by 25%, from 20 million pounds, based on 1993 baseline data, to 15 million pounds.⁸

Outcome Measure: Total mass emissions in pounds per year of all non-criteria pollutants, except carbon dioxide, as documented in the biennial emissions inventory.

Background: Non-criteria pollutants, as used in this objective, include a wide variety of substances in the air that have the potential to be hazardous to public health or the environment. Sources of these pollutants include industrial point sources, area/mobile sources and out-of-state transport. The Department has listed 212 non-criteria pollutants, including mercury, in Chapter 137 of the Department's regulations. Limited health knowledge, public exposure information, and emissions data on source type, actual outdoor air levels and out-of-state transport are available on these listed pollutants. Once DEP has developed a sound air toxics emissions database, DEP will assess the 25% reduction objective in order to determine whether a more ambitious objective is reasonable. In the meantime, the Department is utilizing benzene, a known carcinogen, as a surrogate for other hazardous air pollutants, and has an interim objective of reducing average annual ambient benzene concentrations by 25% from the baseline of 4 parts per billion (volume).

⁷Non-criteria pollutants include hazardous air pollutants, carbon dioxide and methane, which are pollutants that are not subject to a numerical standard as defined by law. For further discussion of the periodic emissions inventory and current baselines for this objective, see the Technical Note on Air Quality in Appendix B.

⁸Neither the 20 million or 15 million pounds totals will include carbon dioxide amounts. Carbon dioxide emissions are tracked through fuel consumption.

This objective is derived from Clean Air Act requirements and Department regulations, while the 2005 target date is based on Department judgment. The measure of success used to evaluate this objective is the amount reduced as demonstrated by the emission inventory database for hazardous air pollutants, which was completed for 1996, and updated in 1998. The Department's ability to achieve success under this objective is also partially dependent upon federal rule making (for example federal rulemaking pertaining to Maximum Control Available Technology (MACT) on pulp and paper technologies, and surface coating and painting technologies).

In addition to hazardous air pollutants, the Department is targeting the development of strategies and programs to cost-effectively reduce greenhouse gas emissions. The majority of the Department's efforts will concentrate on the development and delivery of voluntary programs for greenhouse gas emissions. The Department has worked closely with the Maine State Planning Office (SPO) in the development of a comprehensive greenhouse gas emissions inventory, along with a Global Climate Change Action Plan (GCCAP) containing a menu of potential emission reduction strategies. Over the next several years, we will be working closely with SPO in the creation of a Statewide Energy GCCAP. Energy efficiency programs provide an ideal mechanism for achieving greenhouse gas emission reductions since the technologies involved are readily available and can lead to significant cost savings.

B-3-01. Non-regulatory Programs

Develop and implement a public education, pollution prevention and innovative technology assistance program that targets non-criteria pollutants, as listed in Chapter 137 of the Department's regulations. Expand education and outreach efforts to provide greater public access to technical materials including monitoring data, emissions inventory data and air emissions licenses.

B-3-02. Monitoring and Database Development

Develop a monitoring program and compile a comprehensive statewide emissions inventory of non-criteria pollutants, as listed in Chapter 137 of the Department's regulations. Priorities for FFY01 include the development of an ammonia inventory for use in regional haze modeling efforts; continue joint EPA/state development of an air toxics monitoring program and the operation of current air toxics sites (including the EMPACT site in Portland); continue monitoring for mercury; and the development of an air toxics monitoring QAPP to meet current requirements in QAR5.

B-3-03. In-state Reductions

Reduce by 25% the mass emissions of non-criteria pollutants, as listed in Chapter 137 of the Department's regulations, that are released from new and existing area, point and mobile sources, through the implementation of federal control requirements, market-based strategies and voluntary measures. Develop and implement projects and programs encouraging energy and productive efficiency through the development of output-based emission standards. Special emphasis will be placed on control programs and/or strategies providing multi-pollutant and multi-media benefits. For FFY01, priorities include the development of a voluntary greenhouse gas demonstration project and participation in the development of a Statewide Energy Conservation Program and the drafting of an additional 15 Title V licenses.

B-3-04. Regional Emissions Transport

Identify and implement regionally-consistent strategies to reduce emissions of non-criteria pollutants, particularly mercury, as listed in Chapter 137 of the Department's regulations, transported from out of state. Strategies will include collaborative efforts with international, federal, state, tribal and other governmental agencies. Participate with other northeastern and Mid-Atlantic States in regional haze planning. Priorities for FFY01 include the assessment of biogenic and anthropogenic contributions to secondary aerosols and the development of public education and outreach materials.

B-4. Regulatory Compliance

The primary goals of Maine's air quality program are to ensure and enhance the continued health, safety and general welfare of all citizens of the State, so that everyone can breathe clean air every day of the year in every part of the State; and to protect plant and animal life as well as property from air contaminants created by human-derived air polluting activities of every type, and to render our air, land and waterways free from harmful levels of air contaminants.

This goal is quite lofty, as it should be, because it reflects the long range planning and efforts of the bureau. In carrying out this goal, the bureau operates within the powers and requirements specified in state laws and regulation. The role of the compliance assistance, monitoring and enforcement programs is to provide motivation to the regulated facilities in the State of Maine to comply with or go beyond the requirements of the State's air pollution control laws. This motivation will be provided by:

- Regular communications and positive feedback;
- Compliance assistance;
- On-site compliance inspections;
- Review and analysis of facility self-reporting;
- Monitoring of emission analyses; and
- When appropriate, enforcement.

B-4-01. Compliance Monitoring

B-4-01-a. Licensed Emission Facilities Inspections

The Compliance Inspection staff prioritizes the licensed emission sources to be inspected by using an algorithm which takes a number of different factors into account. A description of this algorithm can be found on pages 68 and 69 of *Inspection Targeting III User's Manual September 30, 1995*. The factors that are the weightiest in the algorithm are the size of a facility's emission, the potential for non-compliance and the potential impact of non-compliance. Maine is a state with relatively few emission sources. The resulting inspection plan will include all major sources and the many stationary sources of VOC and NO_x. In FFY00 and 01, the BAQ plans to conduct 175 stationary source field actions at 130 facilities each year. "Field activities" include facility inspections and observations of cylinder gas audits, relative accuracy tests, relative accuracy test audits and emission tests. About 30% (40) of the actions will be test related activities (i.e., emission test observations, relative accuracy test audits, cylinder gas audits). All 70 facilities with CEMS or COMS will be inspected at least once. Fifty VOC and NO_x RACT facilities and three metal finishing facilities will be inspected. All pulp & paper facilities and facilities of special concern will receive multiple visits. It should be noted that these subsets of facilities overlap, e.g. a RATA could be observed at a facility with a NO_x monitor thereby producing an action which could satisfy each of the three prior sub-categories. As stated earlier, most inspections will include some form of technical assistance.

As a result of Maine's rigorous compliance program, most major sources in Maine have conducted an emission test within the past three years and each is inspected at least once a year. This compliance monitoring routine exceeds the minimum standard in the EPA national compliance strategy for 2000/2001. Staff will also factor "Synthetic Minor" facilities into the targeting system in order to confirm compliance with the license conditions that place the selected facilities in this category. Approximately 20 Synthetic Minors will receive inspections each year. Some Title V facilities in Maine will have compliance schedules. Compliance with the license schedules will be monitored by both the compliance and licensing staffs.

Actions will be documented with hard copy reports in the regional offices and central office files and information from the inspections entered into the national AIRS/AFS computer database.

Related EPA Priorities: Ozone, Non-Attainment NO_x and VOC; Synthetic Minor Source MACT/HAP; Major Sources inspected at least once in 4 years.

MEASURE OF SUCCESS

- Cumulative number of field actions in AFS

B-4-01-b. Title V Compliance Certification

Part of the license issuance process involves review of all draft licenses by the Enforcement Unit and the appropriate compliance inspector. The Enforcement Unit reviews licenses to ensure that they are enforceable, and special emphasis is placed on the initial compliance certification process. The compliance inspectors also review the drafts for enforceability and for monitoring requirements which are needed to determine source compliance. New in the latter half of FFY99 and continuing in 2000/2001, the licensing staff and compliance inspectors are working closely with the Title V sources to ensure that the annual compliance certification requirements are clearly understood by the licensees. A significant amount of time is being taken up in reviewing Title V drafts and working with the applicants. A significant amount of compliance time will be taken up in reviewing the complex compliance certifications that will be submitted pursuant to Title V requirements. Reported non-compliance will be addressed pursuant to the Bureau's compliance policy.

Related EPA Priorities: Review Title V compliance certification and address non-compliance

MEASURE OF SUCCESS

- *Number of annual compliance certifications reviewed*

B-4-01-c. PSD/NSR Review

The Commissioner's Office staff monitors economic development reports and alerts the Air Bureau to facilities which may fall under Prevention of Significant Deterioration and New Source Review requirements. Additionally, compliance staff examine facilities during inspections to ascertain if any changes/modifications/alterations/additions have been made that would require the facility to go through Prevention of Significant Deterioration ("PSD") or New Source Review ("NSR"). The Licensing, Compliance and Enforcement staffs will continue to communicate amongst one-another to ensure that licenses are efficacious. After a license is issued, a copy is sent to the appropriate inspector for his or her records and for entry into the facility data bases (AFS and ITS3).

Related EPA Priorities: PSD/NSR major modification avoidance at pulp & paper facilities

MEASURE OF SUCCESS

- *Number of facility investigations that staff participates in*

B-4-01-d. Continuous Emission Monitor Systems

The Bureau considers continuous emission monitor systems ("CEMS") another very important means of determining and ensuring compliance with emission limits at Maine's larger facilities. Maine's CEMS program is based on DEP Rule Chapter 117, Source Surveillance which incorporates sections of 40 CFR Parts 51 and 60. In general, for all fuel burning equipment with a heat input capacity of greater than 100 million British Thermal Units and sources required by New Source Performance Standards to install and operate CEMS the Bureau requires that these sources conduct quarterly Cylinder Gas Audits and annual Relative Accuracy Test Audits or Relative Accuracy Audits for gaseous CEMS. Opacity monitors are required to undergo quarterly performance audits and annual drift tests. Facilities submit the results of these tests to the compliance inspectors for their review, and inspectors regularly observe the audits. Compliance inspectors review all quarterly continuous emission monitoring reports for compliance and respond to all unusual incidents of monitor downtime or excess emissions within the quarter they are submitted. Problems will be brought to the attention of the Enforcement Unit. Thirty facilities are required to operate CEMS. As in previous years, all facilities with CEMS will be inspected. CEMS reports are recorded in EPA's PC-CEMS computer program and reviewed periodically for problems and trends.

Related EPA Priorities: Review CEM reports and observe audits

MEASURES OF SUCCESS

- *Cumulative number of test observations in AFS.*
- *Number of records in PC-CEMS*

B-4-01-e. Emission Tests

The Compliance Inspection and Enforcement staffs place a great importance on emission tests. Approximately 75 emission sources in the State of Maine are required to conduct emission tests. Specific test requirements are found in a facility's license and are derived from federal regulations and state regulations. Every emission license contains a condition which allows the Department to require emission testing for causes such as suspected non-compliance. Tests are conducted at various intervals, with the majority being tested annually, or every two years. A few facilities are required to test every three years. The testing frequency exceeds the 2000-2001 national strategy requirement. Test observations are documented with written reports and as actions in AFS. The compliance staff will survey the major facilities in the state in 2000 and 2001 to assess if any have not complied with test requirements. The Bureau of Air Quality will also assess the need for emission tests at major sources which do not currently have testing requirements and which have not been tested in the past seven (7) years.

Related EPA Priorities: Emission test at facilities which have not been tested in five (5) years

MEASURE OF SUCCESS

- *Number of test observations in AFS*

B-4-01-f. Enforcement

The Enforcement Unit will continue to seek increased compliance by the regulated community by removing the economic benefit gained through non-compliance. An important goal of enforcement actions will be to establish equity among regulated entities by creating a regulatory environment where it makes good business sense to comply with environmental regulations, and thereby create a deterrent effect on future potential violators.

Top priority will continue to be given to the resolution of ongoing enforcement actions. New enforcement cases will be developed (as resources permit) according to environmental/health impact, regulatory impact, and Departmental initiative. The unit will emphasize enforcement on failed emission tests, violations of emission limits and noncompliance with "Synthetic Minor" license conditions. The unit will enter all emission tests observed by the emission testing coordinator, Notices of Violation, Consent Agreements and Referrals to the Office of the Attorney General into AFS.

Enforcement staff will continue to work closely with the Compliance Assistance Program by sharing information and finding ways to lend support to the Program. The Unit will review all licenses including "Synthetic Minor" licenses and Title V licenses to ensure that they are enforceable and special emphasis will be placed on the Compliance Certification process. When the Compliance Certification indicates violations, staff will take appropriate action.

B-4-01-g. Tips and Complaints

The Bureau of Air Quality receives about 100 complaints regarding air quality each year. Staff responds to all complaints in one fashion or another. Some will lead to field investigations and on rare occasions, enforcement actions. The staff strives to work with local Code Enforcement Officials and State Forest Fire Rangers when it is advantageous in resolving a complaint. The Air Bureau started using the Department's complaint Tracking System in September 2000. The Compliance Inspection Unit will continue to document complaints in its regional office files. The regional offices will receive about 100 complaints in FFY 2000 and in FFY 2001 each. The Compliance Inspectors will try to respond to all complaints in one manner or another. The degree of response will depend on the circumstances of the complaint and can vary from a simple telephone call to an actual investigation.

MEASURE OF SUCCESS.

- *Number of complaints responded to*

B-4-01-h. Gasoline Service Stations

As part of Maine's 15% VOC reduction plan / 90% Rule Effectiveness, by the end of FFY99 staff will have inspected all but 150 of the 1375 gasoline service stations with a monthly throughput greater than 10,000 gallons for compliance with Stage 1 vapor recovery requirements. Staff will continue to inspect the remaining stations and conduct a limited number of re-inspections of Stage 1 facilities based on reports of noncompliance with the vapor control requirements from the Underground Storage Tank staff. About 30 Stage 1 facilities will be inspected in each year. The past year's experience with stations required to have Stage 2 vapor controls (88 facilities with greater than 1,000,000 gallons per year throughput in York, Sagadahoc and Cumberland Counties) have shown a high compliance rate with annual operations tests required by regulation. As a result, staff has reduced the amount of annual test observations to 75% (53 stations) of the facilities and conducting compliance inspections at the remaining stations. In FFY 2000 and 2001 each, the Compliance Inspections Staff will observe 53 Stage 2 tests. The test observations include the inspection of Stage 1 and Stage 2 components and will include outreach on the maintenance of vapor recovery systems.

MEASURE OF SUCCESS.

- *Cumulative number of actions conducted at services stations.*

B-4-01-i. Hazardous Air Pollutant

By the end of FFY98, all dry cleaners in Maine had been inspected at least once. For 2000/2001, the Compliance Inspection staff will inspect 6 dry-cleaners each year. The facilities inspected will be based on the size of the facility, the length of time since the previous inspection and the propensity of the facility towards non-compliance.

The only facility in Maine which is subject to the chrome MACT is Saco Defense. This facility will be inspected as a high priority stationary source. To the best of the Air Bureau's knowledge, there are no chrome anodizing facilities in the state.

Related EPA Priorities: Air Toxics MACT Compliance

MEASURE OF SUCCESS.

- *Cumulative number of actions conducted at dry-cleaners and Chrome MACT facilities.*

B-4-02. Compliance Assistance

Compliance assistance is a coordinated effort conducted by both the Department's Small Business Technical Assistance Program and BAQ staff. The SBTAP will focus on the following air related compliance assistance efforts:

The SBTAP will continue to conduct general outreach and provide general assistance to the regulated community on a variety of compliance and pollution prevention issues by responding to general assistance requests, attending business conferences, and advertising assistance services and our 1-800 phone number in business publications. In FFY99 the SBTAP promoted its assistance services and provided compliance information at 16 business conferences and workshops and answered 136 general assistance requests and provided pollution prevention and compliance information to 1600 businesses through outreach mailings. It is expected that the amount of general assistance activities will be similar for this year.

B-4-03. Significant Violators

The Enforcement Unit will strive to address at least one third of the significant violators on the books at the beginning of the fiscal year and all significant violators greater than two years old.

B-4-04. Data Management

The Compliance Inspection Staff uses EPA's antiquated AIRS/AFS data system to record actions at stationary sources. The Enforcement Staff uses this system to record enforcement actions. Although the system is onerous and difficult to deal with, it provides the advantage of communicating directly to EPA the status of stationary source activities. The data system facilitates the quarterly reviews of activities with EPA.

B-4-05. Policies and Special Initiatives

B-4-05-a. Environmental Management System Promotion

In 1999, the Bureau of Air Quality had one of its inspectors certified as an ISO 14000 auditor. In FFY00, the Bureau intends to continue working both cooperatively with the DEP Office of Innovation and Assistance as well as independently in trying to have industries develop EMS plans for their facilities. In 2000 and 2001, the Compliance Inspection Program will approach two (2) facilities each year to introduce them to EMS.

MEASURE OF SUCCESS

➤ *Number of facilities contacted about EMS plans*

B-4-05-b. No VOC Alternative Solvent Outreach Project

The primary task of the SBTAP this year is to conduct focused compliance and pollution prevention assistance at vehicle repair and autobody shops in Cumberland, York, and Sagadahoc Counties which are currently in non attainment for ozone.

These businesses have been selected for assistance due to their regulatory burden under the Clean Air Act ("CAA") and other environmental laws such as the Resource Conservation and Recovery Act ("RCRA"), and because of the high likelihood of reducing their regulatory burden and environmental emissions through the use of proven pollution prevention technologies.

The ultimate goal of the proposed project is to work with the identified small businesses to help them reduce their pollutant emissions, from solvent cleaning and coating operations, to below regulatory thresholds thereby reducing their regulatory burden, reducing their operating costs, and reducing pollution to the environment.

Assistance will be delivered through a combination of fact sheets, phone calls, and onsite assistance. Promising technology of no VOC biological parts cleaners will be promoted.

B-4-05-c. PSD/NSR at Pulp and Paper Facilities

Investigations by EPA in other regions have indicated that a number of sources may have escaped required PSD/NSR reviews. While there is no indication that this has occurred in the State of Maine, EPA Region 1 will be conducting investigations of the pulp and paper industry in the state to see if these facilities have avoided PSD/NSR requirements. The compliance staff will cooperate with EPA during the investigations and when appropriate, offer assistance. The compliance staff will consider conducting PSD/NSR investigations after receiving adequate training in the topics from EPA and seeing the fruition of EPA's own investigations. If the compliance staff does conduct investigations, it will be in FFY01.

MEASURE OF SUCCESS

➤ *Number of facilities in compliance with PSD/NSR Requirements.*

B-4-05-d. Gasoline Dispensing Facility Environmental Leader Program

DEP staff, including Air Bureau Compliance inspectors, will continue to work on and implement the Department's award-winning, multimedia compliance incentive program for gasoline service stations, the Environmental Leader Program. The Compliance Inspection staff will provide a training session to service station managers on compliance requirements for Stage 2 vapor recovery systems.

MEASURE OF SUCCESS

➤ *Number of service stations designated as Environmental Leaders.*

B-4-05-e. Mercury

The Compliance Staff will be participating in the inspection of the larger potential sources of mercury air emissions in the State of Maine as its role.

MEASURE OF SUCCESS

➤ *Number of inspections completed.*

B-4-05-f. Startrack Environmental Leader Program

The Compliance Inspection Staff will monitor the activities of facilities in EPA's Startrack Program

MEASURE OF SUCCESS

➤ *Number of facilities monitored.*

B-40-05-g. CAA 112(r)

The Bureau will provide EPA with a list of facilities which have a high probability of being affected by Section 112(r) for the Clean Air Act. As an outreach effort, the Compliance Staff will inform Title V facilities of the need to comply with Section 112(r) if the section is applicable to their facility.

MEASURE OF SUCCESS

➤ *Submittal of a list of facilities to EPA. Number of Title V facilities informed about Section 112 r.*

C. LAND AND WATER QUALITY

Goal: To ensure that land and water resources are protected, restored and enhanced as ecological systems supporting both the natural world and human activities, and to ensure that all waters of the state meet or exceed their classification standards.

OVERALL PERFORMANCE BUDGET OBJECTIVE:

By 2001, reduce by 10% from 1997, the percentage of Maine's water bodies that do not meet Maine's water quality classification standards for a designated use.

ISSUE STATEMENT:

Clean water is something people expect in Maine, but achieving it is still a goal in regard to many of the State's water resources. Notable successes in addressing the traditional point sources of pollution from industries have resulted in visibly improved conditions. However, these must be taken together with the prominent and difficult problems of addressing non-point sources of pollution from land uses, air loadings, and everyday activities of Maine citizens, which continue to put surface and groundwater resources at risk. Persistent bioaccumulative toxins from a variety of sources, phosphorus from soil disturbance, combined sewer overflows, habitat loss, and other issues are of concern. Some of these challenges can be met by continuing improvements and innovation from industrial and municipal facilities that are licensed to discharge to Maine waters. However, a continued emphasis on watershed management measures will be needed for many issues that are not easily regulated. For these issues, public awareness must grow through increased education and outreach efforts. Strong collaboration is needed with other State and Federal agencies, with local governments and with grass root citizen groups to carry out the assessment of resource conditions, and to plan and implement solutions in a holistic way to complex pollution problems that cross political boundaries.

FUNDING SOURCES:

In FFY00, funding to support programs came from the following sources: State General Fund \$ 4,009,872 (37.2 %), State Licensing Fees \$1,328,513 (12.3%), Other State \$421,503 (3.9%), Federal PPG \$3,673,453 (34.1%), Other Federal \$1,337,963 (12.4%). Percentages are approximate. See Appendix A for a listing by program.

In the area of funding for programs, shortfalls are expected in the following programs over the next few years unless additional funds are obtained, due to declines in fees received, flat or reduced federal funding, and/or insufficient fee increases based on the CPI adjustment (recent inflation rates have been low, on the order of 3%) relative to the actual increases in salaries: Overboard Discharge Licensing and Inspection Program, Coastal Zone Management (CZM), Surface Water Quality Protection (106), Underground Injection Control Program (UIC), Pollution Prevention (104(b)(3), Water Quality Planning (604(b)), Waste Water Treatment Plant Operator Training 104(g), Wastewater Treatment Plant Construction Grants (205(g)), MEPF (Site Law review), and MEPF Waste Water.

RECENT PERFORMANCE:

In the 1999-2000 legislative session, a new law intended to help prevent the spread of milfoil was enacted. The responsibilities of the DEP's new Pump-Out Program were clarified. An additional biologist position was authorized, in order to increase resources related to Atlantic Salmon issues. The Legislature allocated funds for the continued operation of the JETCC (Joint Environmental Training Coordinating Committee) wastewater training programs, and approved a 2.9 million-dollar appropriation for wastewater pollution abatement. A minor bill resolved a licensing problem with a handful of older, small, fish hatcheries. A minor amendment to the Site Law restricting the future applicability of that law's municipal capacity exemption was passed as part of a larger anti-sprawl measure. Proposed bills restricting agency authority to visit potential problem sites and exempting fish hatcheries were defeated. A measure to require the DEP to reimburse homeowners with malfunctioning peat sewage disposal systems also failed.

Earlier this year, DEP submitted recommendations to the Legislature for measures to increase the use of buffer strips and to facilitate the upgrade of substandard wastewater disposal systems. The Legislature did not approve these recommendations, but has required the DEP and the Land Use Regulation Commission to provisionally adopt consistent rules to regulate cutting adjacent to water bodies. These rules will require legislative approval before becoming effective, and may lead to changes in statute. The DEP will also be working with the Department of Human Services, Division of Health-Engineering to develop voluntary guidelines covering the inspection of subsurface wastewater disposal systems.

As part of the ongoing effort to improve the wastewater licensing program, DEP has added three wastewater discharge staff, and developed a 3-year schedule to eliminate the backlog of industrial and municipal licenses (with quarterly milestones). Field services and compliance staff have been shifted from the Division of Water Resource Regulation to the Division of Engineering and Technical Assistance, to allow better coordination with technical assistance staff. Internal audits of license files have been instituted. Lastly, standard operating procedures are being revised or developed for licensing, compliance and enforcement.

The U.S. Army Corps of Engineers is evaluating the possible removal of the Smelt Hill Dam on the Presumpscot, which would improve migratory fish habitat and water quality.

Regarding nonpoint source pollution (NPS) abatement, the DEP has continued to administer 319 grant funding, including an additional \$1.2 million made available as part of the Clean Water Action Plan. A regional partnership with Soil and Water Conservation Districts was established in 2000, which includes \$160,000 in State match funding. Funding has been directed to restoration projects in priority watersheds. The DEP also submitted to EPA its plan for administering an enhanced Nonpoint Source Management Program (addressing the "Nine Key Elements" of an enhanced NPS program) with 15-year goals and 5-year objectives identified. These goals and objectives were developed in close consultation with the Departments of Conservation (DOC), Agriculture, Food and Rural Resources (DAFRR), and Human Services (DHS), and with the State Planning Office (SPO). EPA approved Maine's NPS Program Upgrade on October 13, 1999.

With the passage of lake protection legislation in 1998, four new positions were added. With these positions, the Department has stepped up compliance inspections and Shoreland Zoning assistance in "most at risk" lake watersheds, and has developed a lakes education program that includes a non-phosphorus fertilizer campaign. TMDLs have been approved for Cobbossee Lake and Madawaska Lake. At the same time, the SWCDs have increased the level of technical assistance available to local watershed groups. New or updated publications for outreach have been produced, including a revised Camp Road Maintenance Manual, and a new brochure for waterfront property owners describing laws and best practices. A "Maine Lakes" web page pulls together a variety of lakes related information.

The DEP continues to administer the State Revolving Loan Program (SRF) jointly with the Maine Municipal Bond Bank (MMBB) to fund new municipal treatment facilities and upgrade existing facilities. The DEP has expanded the uses of SRF re-payment funds. A portion of these funds is to be used to construct non-point source pollution control facilities for manure waste and milk room waste, administered through the Finance Authority of Maine. Another use of the funds will be to construct sewer extensions in designated growth areas of municipalities to reduce sprawl. The projects will be designated by the State Planning Office (SPO).

The DEP also continued to administer the Erosion and Sediment Control Law (ESCL) and the Stormwater Management Law (SWML). The ESCL is a non-reporting, performance standard regulatory program. The DEP is placing heavy emphasis on education and outreach to achieve compliance with this law. Enforcement action may be taken against anyone causing significant erosion to a protected natural resource (defined under the Natural Resources Protection Act). Under the SWML, the DEP reviewed 230 projects between September 1997 and June 30, 2000 (not including projects reviewed for stormwater under the Site Location Law). Under the program, water quality standards exist for developments in watersheds of lakes and coastal waters that are "most at risk due to development." The DEP is collecting data on "most at risk streams" and plans to begin rulemaking on these in 2000.

Training is being coordinated through the Nonpoint Source Training and Resource Center. From January 1997 to June of 2000, 1519 participants have attended training on the Erosion Control Law and/or Erosion Control Best Management Practices. These include contractors, non-engineering land use professionals, golf course superintendents, road crews, camp road owners, etc. As of August, 2000, 156 individuals have become certified in Erosion and Sediment Control Practices by the DEP. During that time period an additional 742 participants also received training on the Stormwater Management Law and/or Stormwater Best Management Practices.

COMPLIANCE

In general, Maine has met its compliance goals for FFY 2000 and the long-term trends continue to demonstrate reduced discharges of pollutants to waters of the State. From 1990 to 1999, the seven bleach kraft mills reduced their total pounds of biological oxygen demand (BOD) released annually by 54%, and total pounds of total suspended solids (TSS) by 52%. Maine's municipal wastewater treatment facilities continue to show a downward trend in total pounds of BOD discharged to Maine's rivers and streams. In comparing the discharge monitoring data from 100 municipal treatment facilities during the period 1994-1999, total pounds of BOD decreased from approximately 5.6 million pounds to 5.0 million pounds. Likewise, during the same time period, TSS decreased from 5.5 million pounds to 4.9 million pounds. Dioxin monitoring results show all six bleach kraft mills to be in compliance with the statutory requirement of no detectable levels of 2,3,7,8-TCDD and 2,3,7,8-TCDF at the bleach plant, and recent data show continuing downward trends in levels of dioxin in fish tissue.

The Water Program has exceeded its commitments for facility inspections, including pretreatment inspections, with approximately 275 inspections of all types having been conducted in FFY 2000. An additional 30 inspections were conducted by EPA or jointly with the State. This assistance from EPA is appreciated. In the Combined Sewer Overflow program, nearly all communities have submitted annual progress reports, and all continue to make acceptable progress in implementing their long-term control plans. The Department was awaiting guidance from EPA and did not move forward in identifying the universe of Separated Sanitary Overflows (SSOs) in the State. In September 2000, the Department received a copy of the "EPA New England CSO/SSO Response Plan" which describes, in part, the Region's goals for addressing significant SSOs. The Department plans to work with EPA during the next fiscal year to identify the universe of SSOs in Maine, and will assist EPA in meeting the requirements of the September, 2000 Response Plan. The Department believes the number of these overflows is small.

Quarterly EPA/MEDEP Compliance-Enforcement meetings were conducted during FFY2000 on 2/16/00, 6/6/00, 8/18/00 and 11/16/00. Additionally, monthly Non-Compliance Review meetings were held each month. The State's new compliance tracking program has been instituted, and is being used by all regions and inspectors to record compliance issues, inspections, and other events for each facility. During FFY 2001 the use of the system will be refined and expanded.

During FFY 2000, the number of facilities on the Exception List each quarter ranged from 0 to 4. The annual average was 1.75 per quarter, meeting EPA's goal of no more than 2 per quarter. One incident on the Exceptions List was due to monitoring reports being filled in improperly and did not involve any effluent violations. The majority of Exceptions List or Significant Non-Compliance recorded involved daily maximum values, primarily for settled solids or residual chlorine. While some of these incidents were indicative of chronic problems, most were transient and were resolved by the facility through voluntary actions or with DEP technical assistance that did not require formal enforcement action to resolve the problem.

The interim mercury rule, Chapter 519, became effective in February 2000. Interim effluent limits have been set for nearly 160 facilities. In conjunction with this new rule, the Department conducted several special training sessions around the State to instruct Department staff and treatment facility on proper collection of samples for low-level mercury analysis. The State's sole chlor-alkali facilities ceased production in September 2000. The Water Program staff continue to work with the facility owners and other Department programs to address issues with decommissioning of the facility and continuing treatment of contaminated ground water.

Updating of the State's toxics control rule to include revised EPA water quality criteria for several toxic compounds was not completed in FFY 2000, but is expected to be done in 2001.

STATUS OF FFY00 PPA:

Most PPA activities are annual, continuing, or multiple year efforts. Others had short-term target dates and are on schedule to be finished.

Highlights of short-term activities that have been completed. Total Maximum Daily Loads (TMDLs) have been completed and approved by EPA in FFY00 for Salmon Falls and Piscataqua River, Presque Isle Stream, Cobbossee Lake, and Madawaska Lake. The draft TMDL for the Meduxnekeag River has completed the public review process. A preliminary draft TMDL for Sebasticook Lake was sent to EPA on September 29, 2000.

The following commitments for FFY00 have been delayed: China Lake (FFY01), water quality certifications for Upper and Lower Richardson Lakes (FFY01), for Damariscotta River (FFY02); bog Brook (fish hatchery license FFY01). TMDL assessment or development work continues for Jock Stream, Androscoggin River (Gulf Island), Mousam River (Sanford), Mousam R (Kennebunk), and Royal River Estuary (Yarmouth). Additionally, TMDLs will be submitted for East Pond and Mousam Lake.

TMDLs for the following waters on the 1998 303(d) list are no longer anticipated because water quality standards are now attained, or enforceable control measures are now in effect: Stockton Harbor (OBD removed); Estes Lake (discharge removed), E Branch Sebasticook River (aquatic life attains); Eddy Brook and Hatchery Brook (fish hatchery licenses issued), Kennebec River/Augusta (Edwards dam removal license issued/aquatic life attains).

Phase 1 of the Public Educational Access to Resources on Lakes in Maine (PEARL) is complete, and Phase 2 is expected to be completed in Spring, 2001. Rules and Model Pollution Prevention Plans have been drafted, as part of implementing provisions of new mercury legislation (PL 1999, c. 500). A mercury report was submitted to the Legislature in January, 2000. A draft Kennebec River Water Quality Model has been completed. The marine database has been initiated.

The Saco Bay Plan is essentially completed, and staff are now providing assistance to the Wells Beach planning effort. A draft wetlands report detailing wetland application and wetland loss tracking was submitted to EPA in April, 2000. The DEP and Department of Human Services have completed a memorandum of understanding to use the Drinking Water Program Grant for completion of initial compilation of spatial and site information. These agencies have also developed a standard operating procedure to improve coordination regarding implementation of the waste water discharge law and subsurface wastewater disposal rules. The sand/salt municipal and county priority list is done; the private and state list should be done by September, 2000.

Highlights of changes to plans (extensions, modifications, and deletions). More time is needed to appropriately analyze the feasibility of a wetlands compensation program, and DEP is considering requesting amendment of the Natural Resources Protection Act (NRPA) to provide for additional time. Rulemaking to identify and provide standards for watersheds of streams considered "most at risk from new development" or "sensitive or threatened" has been delayed due to the need for more information. Adoption of the 1998 recommended water quality criteria for toxics is still planned. Updating of the Maine Stormwater BMP Manual has been postponed due to the need to address issues relating to manufactured systems, and project review workload.

An effort to seek means to integrate information from different water body types by coordinating selection of sampling locations has been dropped for now due to basin monitoring priorities. Major sections of the Site Location Rules were revised through separate rulemakings in recent years and, therefore, a general revision is no longer planned. However, Site Law compliance efforts will be the focus of two dedicated positions in the coming year. The work plan for the Natural Resources Mapping Project has been revised to integrate the project with the Smart Growth Program, and coordination for the Resource Mapping Project has been shifted to the State Planning Office.

In November 1999, the DEP filed an application with U.S. EPA for delegation of the NPDES program. On February 16, 2000, EPA conducted a public hearing on the application. The public comment period initially closed February 29, 2000, but has been extended until August 21, 2000. The DEP and EPA have jointly agreed to an extension of decision on the state application to September 26, 2000.

THE PLAN -- HIGHLIGHTS:

For rivers and streams, DEP will focus on improving the dioxin monitoring program, and on monitoring pulp and paper mill compliance with the state dioxin law and Federal Cluster Rule requirements. Provisions of the 1999 mercury legislation will be implemented to monitor compliance with model pollution prevention plans and facility specific interim effluent limits.

DEP will continue to target nonpoint source efforts pursuant to the Unified Watershed Assessment and the state's watershed prioritization system and will work with EPA to implement proposed enhancements to the Nonpoint Source (NPS) Program as identified in the DEP's Nine Key Elements report. DEP will follow the schedule in the 303(d) list for developing and implementing TMDLs.

In 2001, the DEP will be monitoring southern Maine river basins according to the second year of the second five-year cycle for the Surface Water Ambient Toxics Monitoring Program (SWAT). DEP will be participating in efforts to define instream flow standards for the State of Maine, and to address the many issues related to flow and withdrawal. Fulfilling the requirements of the Atlantic Salmon Plan continues to be a priority. The DEP has a Memorandum of Understanding with the State Planning Office, which lays out DEP's responsibilities to complete certain actions under the Atlantic Salmon Plan.

New legislation (PL 1999, ch. 722) establishes an invasive aquatic species control effort, that will be undertaken with a significant public education effort. This builds upon DEP's continued implementation of the Lakes Protection Program, which includes improving enforcement of land use laws, increasing education and outreach on lakes issues, and furthering scientific understanding of lake functions. DEP will also bring greater focus to education and outreach through the continuation of a Nonpoint Education for Municipal Officials (NEMO) program in the Casco Bay watershed, and a Stream Teams Program to provide grass roots organizations with better tools to protect or restore their streams. The Stream Teams Program will operate state-wide, but will focus training and technical assistance services in high priority watersheds.

In the area of bureau efficiency and planning, efforts to improve the operation of the waste discharge licensing program are continuing. Addressing the backlog of expired permits, and developing internal enforcement/compliance procedures including an internal auditing program, continue to be a high priority for 2001. Together with the Department of Marine Resources, DEP will be developing a 5-year strategic plan for the Overboard Discharge (OBD) Program. In all programs, there is a need to improve the use of geographic information systems (GIS) in licensing, data management, decision making, and delivery of information to various audiences. Conversion of the Wetland Loss Tracking System is a GIS priority in the short term. And, a pilot program is being considered that would conduct comprehensive assessments in areas experiencing significant growth, in order to provide better information on cumulative impacts to local and state planners and review agents.

In the area of standards, the statutory marine dissolved oxygen standards need to be updated.

Several areas remain a focus over the long-term, and emphasize the need for flexibility in planning in the short-term. Persistent, bioaccumulative toxics (PBTs) are a significant problem for surface waters. A significant portion of the problem appears to be airborne, which is largely outside the framework of existing regulatory programs -- both water and air -- to address. DEP needs to continue to press forward with efforts to improve the level of knowledge of the sources of these contaminants, and their relative risks and exposure pathways, as well as to develop effective strategies to address the risks.

In general, the effects upon wetlands from the cumulative impacts of human activities are insufficiently understood, because small wetland alterations are not tracked under current law. Significant additional work in watershed planning and restoration is required to address stormwater impacts to water bodies, much at the local level.

Maine's monitoring and assessment programs have yet to reach many water bodies, and the science in this area is rapidly developing. Therefore, previously undiscovered contaminant problems can be expected to arise in the future. There is a need to better discover how to encourage movement toward sustainable development and living, and away from continued damage to and loss of Maine's land and water resources.

PUBLIC PARTICIPATION:

The Bureau of Land and Water Quality seeks advice and feedback from interested persons throughout the year on many aspects of its programs. Vehicles range from formal stakeholder groups, to advisory committees, partnerships, and requests for comments from the general public on the Web. A draft of the bureau's sections of the Performance Partnership Agreement will be distributed to the Maine Watershed Management Committee, with feedback sought at a meeting in September, 2000. This Committee includes representatives from Maine's resource agencies (Departments of Marine Resources, Inland Fisheries and Wildlife, Human Services/Health Engineering, Conservation, and Agriculture, Food and Rural Resources); the Maine Chamber of Commerce and Business Alliance; Natural Resources Council of Maine; Congress of Lake Associations; Maine Association of Conservation Districts; USDA Natural Resources Conservation Service; US Geological Survey; and the US Environmental Protection Agency (New England).

Programs dealing with resource monitoring and assessment benefit from public participation through a number of vehicles. The Lake Program Review Committee includes other agencies, outside organizations such as the Congress of Lakes Association (COLA) and Soil and Water Conservation Districts (SWCDs), as well as other DEP bureaus. The Surface Water Toxics Advisory (SWAT) Committee includes agencies, businesses, environmental groups, and academics. Interests involved with the Salmon Conservation Plan include the Atlantic Salmon Commission, agencies, and seven watershed councils. In the area of aquatic biodiversity, staff partner with the Department of Inland Fisheries and Wildlife (IF&W) and the Nature Conservancy. A steering committee includes agencies, environmental groups and academics.

The Wastewater Discharge Licensing Program actively seeks formal and informal participation in program content and direction. Stakeholder group participation has been important on significant issues such as mercury, toxicity protocols, TMDL process, Warren data collecting and modeling, and NPDES delegation. Groups often involved include the Maine Waste Water Control Association, Natural Resources Council of Maine, Maine Rural Water Association, Penobscot Indian Nation, and Maine Chamber of Commerce and Industry. The Withdrawal Work Group, co-chaired by the Director of the Bureau of Land and Water Quality, was created by the Land and Water Resources Council to explore policies and engage stakeholders.

Programs offering technical and financial assistance in the areas of wastewater treatment plant construction and operation benefit from the involvement of the Maine Waste Water Control Association (MWWCA). Bureau staff are currently partnering on agricultural nonpoint source issues with the Maine Department of Agriculture, Food and Rural Resources (DAFRR), Soil and Water Conservation Districts, and the Maine Farm Bureau. Staff are also working with the State Planning Office (SPO) on issues involving wastewater infrastructure in urban areas. There is a regular exchange of information with private engineering firms and with the 141 towns that have wastewater treatment facilities.

TIME FRAME:

Most of the strategies and activities listed in this plan are multi-year or continuing tasks. Items marked with (*) are expected to be completed in FFY01.

MEASURABLE OBJECTIVES:

C-1. Lakes and Ponds

By 2005, the overall trophic state of Maine lakes will be stable or improving.⁹ Continue and improve monitoring for toxics contamination in lakes to remove advisories.

Outcome Measures: (a) the overall trophic state of Maine lakes; (b) toxics levels (lakes without advisories).

Background: Lakes are extremely complex systems, and our predictive capability regarding impacts to them is low. Lakes are impacted by the synergistic effects of many different stressors and, unlike rivers, which respond rapidly to treatment technology improvements on point sources, they are very slow to recover. It is therefore important that this objective support prevention as well as restoration.

DEP is required by law to report biannually on the status of the State's waters (Federal Clean Water Act Section 305(b)). The information is partly based on water quality monitoring (by the Department and by citizen volunteers), and partly based on knowledge of the presence of point and nonpoint sources. Measuring water quality improvements was easier over the past 20 years than it will be over the next twenty. With the major problems from single sources largely under control, the remaining problems are more diffuse, more subtle, and often more costly to control.

This is an objective over which the DEP has limited control but significant influence. Successful attainment of this goal will depend on changing attitudes and habits so as to modify human activities in lake watersheds.

C-1-01. Address Nonpoint Sources of Pollution to Lakes and Ponds -- Loadings from Runoff, Sediment and Groundwater (including stormwater management and erosion control)

Address nonpoint sources of pollution through development and implementation of standards, monitoring and assessment, educational and technical assistance, and provision of grants and loans.

C-1-01-a. Development and Implementation of Standards

Implement and continue to appropriately develop laws that regulate activities in lake watersheds, such as the Natural Resources Protection Act, Stormwater Management Law, and Erosion and Sedimentation Control Law. In FFY01, priorities will include (a) aquatic species prevention and control efforts, (b) inspection of 50% of stormwater permits and 20% of stormwater permits by rule (each year), (c) coordination of State and Federal stormwater programs, and (d) certain public education initiatives.

⁹Using the draft 1996 State of Maine Water Quality Assessment (305(b) Report) as a base line.

C-1-01-b. Monitoring and Assessment

Continue monitoring programs, development and implementation of tools to assess lake processes and BMPs, and participation in pilot studies and special projects as needs and resources permit. In FFY01, priorities will include (a) developing lake TMDLs based on the priorities established in the 303(d) list (specific water bodies targeted for EMDL completion are East Pond, China Lake and Mousam Lake); (b) developing protocols for BMP evaluation; (c) developing a long-term lakes monitoring program; (d) baseline monitoring on select lakes; (e) enhancing trend detection methodology for lake trophic conditions, and (f) increasing the number of volunteer monitors.

C-1-01-c. Education and Technical Assistance; Grants and Loans

Promote use of effective BMPs and land management practices; promote local stewardship of local resources; increase public awareness of resource values, pollution threats, environmental standards, and individual opportunities; provide grants and loans to CSO projects; and address chronic NPS sources in priority watersheds. In FFY01, priorities will include (a) providing technical and financial assistance for watershed surveys, NPS implementation projects, and restoration work in prioritized watersheds and water bodies (including implementation of the "Maine Nonpoint Source Control Program Upgrade and 15 Year Strategy" and allocation of the incremental CWAP 319 funds for restoration activities in priority watershed); (b) developing a strategy for addressing erosion and drainage problems on camproads; (c) education efforts such as the "soil as a pollutant" public awareness campaign, NPSTRC training workshops, market research, and work with schools; and (d) begin using the standard NPS Grants Tracking and Reporting System (GRTS) during FFY01. (EPA will provide training to DEP staff.)

C-1-02. Address Non-point Sources of Pollution to Lakes and Ponds -- loadings from air

In the long-term, develop a strategy for dealing with certain types of loadings from air, focusing on persistent, bioaccumulative toxics. Support the Air Bureau in the Casco Bay Air Deposition Study. (See B-2-006) Priorities for FFY01 include completing the Deposition Study Report in 2001, and monitoring 5 additional lakes near mercury sources. Continue to participate until at least 2002 or 2003, then reevaluate.

C-2. Rivers and Streams

By 2005, reduce by 65 miles the portions of Maine rivers and streams that do not meet fishable/swimmable or other applicable water quality standards by reducing pollutants from combined sewer overflows (CSOs) and other sources, excluding dioxin¹⁰ or water withdrawals. By 2002, have dioxin levels in fish tissue above and below dischargers be the same.

Outcome Measures: (a) miles of rivers and streams meeting fishable/swimmable or other applicable water quality standards, excluding dioxin; (b) miles with fish consumption advisory due to dioxin.

Background: This objective deals with impairment of rivers and streams that is not related to dioxin. Of the 521 river miles that do not fully support fishable-swimmable goals, 238 miles are due to fish consumption advisories for dioxin in fish tissue. The second most significant source or cause of nonattainment is combined sewer overflows (CSOs), and the third most significant is hydropower impoundments. The costs involved with each of these sources are very high.

Sixty-five miles is about 14.5% of the total river miles that are in nonattainment. DEP believes that this objective is ambitious, but achievable. Our ability to predict the response of the rivers once point source technologies are in place is relatively high. The removal of all dioxin fish advisories from Maine rivers by the year 2002 is also achievable because the paper mills that discharge to these rivers were able to implement new federal Best Available Technology ("BAT") or EPA defined "Advanced Technology" in 1998. The response time of decreasing dioxin levels in fish tissue due to technology improvements in paper mills has been fairly rapid (2-3 years).

DEP's control over the achievement of this objective is reasonably high. However, it is important to note that the objective measure is based upon current, limited information. As more monitoring is conducted, it can be expected that additional problems will be discovered.

C-2-01. Control Point Source Discharges to Rivers and Streams

Control point source discharges through licensing, compliance and enforcement, monitoring and assessment, educational and technical assistance, and provision of grants and loans.

¹⁰Using the 1996 State of Maine Water Quality Assessment (305(b) Report) as a base line. Approximately 448.8 of 31,672 river and stream miles (1.4%) do not fully support fishable-swimmable goals, and 97.3 miles (0.3%) do not meet designated water quality classification standards. **Note:** The 1996 Report pre-dates the state-wide mercury advisories. Mercury advisories represent a new area where we will need to establish a goal.

C-2-01-a. Licensing, Compliance and Enforcement.

Implement and continue to appropriately develop laws that regulate activities in or discharging to stream and river watersheds, such as the Waste Discharge Law and Site Location of Development Law. Priorities for FFY01 include (a) improving waste discharge program services (e.g. work with stakeholders; eliminate backlog within 3 years in priority order; coordinate better with DEA; establish MPDES program; and ensure quality of discharge monitoring data and compliance tracking systems); (b) implementing provisions of new mercury law; and (c) eliminating non-attainment on the Androscoggin and Kennebec Rivers due to hydropower operations; and continuing the CSO abatement program.

C-2-01-b. Monitoring and Assessment

Continue monitoring programs, and participate in pilot studies and special projects as needs and resources permit. Priorities for FFY01 include (a) adopting the 1998 recommended ambient water quality criteria for toxics*; (b) conducting an assessment of monitoring and compliance activities conducted pursuant to the Toxics Rule; (c) concentrating monitoring activities in the Penobscot basin and coast east of Penobscot (FFY01) and in the Kennebec and adjacent coast in FFY02; (d) develop TMDLs based on priorities established in the 303(d) list (Specific water bodies target for TMDL completion include Mousam River, Androscoggin River [Gulf Island], Fish Brook, Frost Gully Brook and Concord Gully. Resolution of water quality problems on Sebasticook River [Burnham] and the West Branch of the Penobscot River may be resolved without need of completing TMDLs pending changes in regulations.); (e) proposing statewide water quality criteria for mercury*; and (f) completing legislative reports on status of mercury discharges and implementation of pollution prevention plans.

C-2-01-c. Education and Technical Assistance; Grants and Loans

Provide on-site technical assistance to municipal wastewater treatment plant operators, and other dischargers as resources allow, and continue the Small Community Grants and CSO programs. Priorities for FFY01 include providing (a) tools to treatment plants to address likely sources of mercury*; and (b) wet weather control strategies.

C-2-02. Address Non-point Sources of Pollution (NPS) Loadings to Rivers and Streams from Land/Water (including stormwater and erosion)

Address nonpoint sources of pollution through implementation of standards, monitoring and assessment, educational and technical assistance, and provision of grants and loans.

C-2-02-a Standards

Implement and continue to appropriately develop laws that regulate activities in or discharging to stream and river watersheds, such as the Stormwater Management Law, Natural Resources Protection Act, Erosion and Sedimentation Control Law, Mandatory Shoreland Zoning Act, and Site Location of Development Law. Priorities for FFY01 include identifying "most at risk" and "sensitive and threatened" stream watersheds, and developing standards, through updating of the stormwater management rules.

C-2-02-b. Monitoring and Assessment

Continue monitoring and watershed assessment, and participate in pilot studies and special projects as needs and resources permit. Priorities in FFY01 include: a) developing stream TMDLs based on priorities established in the 303(d) list. (Specific priorities include Fish Brook, Frost Gully Brook and Concord Bully Brook.); b) developing a stream status data base to be used to establish future priorities for action; c) biological assessment of small streams suspected of having agricultural impacts.

C-2-02-c. Education and Technical Assistance; Grants and Loans

Continue the CSO program. Promote use of effective BMPs and land management practices; promote local stewardship of local resources; increase public awareness of resource values, pollution threats, environmental standards, and individual opportunities; and address chronic non-point sources in priority watersheds. Provide technical or financial assistance for communities in order to eliminate discharges of untreated or partially treated wastewater. Priorities for FFY01 include (a) identifying waters threatened or impaired by non-point sources using Geographic Information System tools and Stream Assessment Field Screening Method; (b) implementing the Stream Team program and the NEMO pilot project; (c) developing multi-agency buffer standards on headwater streams (legislative report due 1/2002); (d) providing assistance for non-point source development or implementation projects on rivers and streams with active projects; (e) completing assessment of Long Creek Watershed; and (f) developing/testing methods for a stream watershed survey manual.

C-2-03. Address Non-point Sources of Pollution -- loadings from air

Develop a strategy for dealing with certain types of loadings from air, especially persistent, bioaccumulative toxics.

C-3. Estuarine and Marine Areas

By 2005, reduce by 10% the square miles of estuarine and marine habitat in nonattainment due to bacterial contamination.¹¹ Reduce the square miles not supporting designated uses due to other causes and, by 2005, develop a scientific basis to define non-attainment, impaired and threatened coastal waters so that measurable objectives may be set in relation to these causes.

Outcome Measures: (a) the square miles of estuarine and marine habitat in nonattainment due to bacterial contamination; (b) the square miles of estuarine and marine habitat not supporting designated uses due to other causes (insufficient information currently available to set measures); (c) method not yet determined for establishing measures concerning beach systems and associated coastal resources.

Background: The primary sources of nonattainment in estuarine and marine areas due to bacterial contamination are combined sewer overflows (CSOs), malfunctioning septic systems, and the presence of overboard discharges (OBDs). DEP licenses OBDs, and provides grants for OBD removal, if funded by voters through a bond. The Department of Marine Resources determines when a shellfish area may be opened for harvesting, based on the removal of known discharges or when continuous sampling reveals that bacterial contamination is no longer a problem. The Department of Human Services oversees septic systems. The DEP also may provide grants for the replacement of malfunctioning septic systems that are having an impact on surface waters, through the Small Community Grants program, provided this is funded by the voters through a bond. Control over the attainment of this objective by the DEP is low; control by state government as a whole is reasonably high.

Coastal water quality involves more than sanitation issues around shellfish. Toxic contaminants, nutrients and habitat availability impact the sustained use of Maine's marine resources. All pollutants introduced into rivers and streams ultimately are discharged into estuaries, bays, and the Gulf of Maine. At present, our ability to measure impacts and effects of pollutants on marine and estuarine life is poor and we are not able to say whether marine life in coastal waters is impaired or threatened, let alone whether water quality classifications (marine life standards) are being attained. We have a good assessment of the distribution of pollutants through the DEP's Marine Environmental Monitoring Program, Gulfwatch, and Surface Water Ambient Toxics Monitoring Program (SWAT), and are in a position to synthesize the information to identify gaps and develop an ability to measure classification attainment, impairment and threats.

¹¹Using the 1996 State of Maine Water Quality Assessment (305(b) Report) as a baseline, 382.5 sq. mi. nonattainment due to bacterial contamination; 38.4 partial attainment.

C-3-01. Control Point Source Discharges to Estuarine and Marine Waters

Control point source discharges through development and implementation of standards, monitoring and assessment, compliance and enforcement, educational and technical assistance, and provision of grants and loans.

C-3-01-a. Standards

Implement and continue to appropriately develop laws that regulate activities near or discharging to estuarine and marine areas, such as the Wastewater Discharge Law, Stormwater Management Law, Natural Resources Protection Act, Erosion and Sedimentation Control Law, Mandatory Shoreland Zoning Act, and Site Location of Development Law.

C-3-01-b. Monitoring and Assessment

Continue monitoring and watershed assessment, and participate in pilot studies and special projects as needs and resources permit. Priorities for FFY01 include developing estuarine and marine TMDLs based on the priorities established in the 303(d) list.

C-3-01-c. Education and Technical Assistance; Grants and Loans

Provide on-site technical assistance to municipal treatment plant operators, and other dischargers as resources allow. Use State Revolving Loan Fund (SRF) loans and DEP grants to replace, upgrade, and build wastewater treatment facilities. Priorities for FFY01 include continuing the CSO abatement program.

C-3-02. Address Non-point Sources of Pollution to Estuarine and Marine Waters -- loadings from land/water/air

Address nonpoint sources of pollution through implementation of standards, monitoring and assessment, educational and technical assistance, and provision of grants and loans.

C-3-02-a. Standards

Implement and continue to appropriately develop laws that regulate activities near, in or discharging to estuarine and marine areas, such as the Waste Discharge Law (including removal of overboard discharges), Natural Resources Protection Act, Stormwater Management Law, Erosion and Sedimentation Control Law, and Site Location of Development Law. Priorities for FFY01 include (a) amending the statutory dissolved oxygen standards; (b) working with the Department of Marine Resources to develop a strategic plan and annual priorities for the reopening of certain shellfish areas, by targeting areas for removal of overboard discharges (OBDs) and straight pipes; and (c) developing general permit standards for wastewater discharge from marinas through a stakeholder process*.

C-3-02-b. Monitoring and Assessment

Continue monitoring programs, and participate in pilot studies and special projects as needs and resources permit. Priorities for FFY01 include (a) monitoring toxic contaminants coastwide under Gulfwatch and SWAT, and (b) cooperating with EPA to operate the air monitoring station at Wolfs Neck State Park. TMDLs are targeted for Mousam estuary and Royal estuary (if possible).

C-3-02-c. Education and Technical Assistance; Grants and Loans

Promote use of effective BMPs and land management practices; promote local stewardship of local resources; increase public awareness of resource values, pollution threats, environmental standards, and individual opportunities; provide support for the removal of overboard discharges; and address chronic NPS sources in priority watersheds. Use loan and grant program funds to support projects that will maintain or improve estuarine and marine water quality. Priorities for FFY01 include (a) administration of new Boat Pump-out Program; (b) supporting the Casco Bay Estuary Project; (c) participating on the advisory committee for the Corporate Wetlands Restoration Program (a proposed goal for the program being to raise funds for wetland restoration work in Maine); (d) education efforts directed toward habitat protection and toxic contamination; (e) continuing to support stakeholders in the development of beach management plans; and (f) beginning construction of the Waldoboro Land Treatment Project*.

C-3-02-d. CZMA 6217

Work with EPA and other agencies to address conditions of approval of Maine's Coastal Nonpoint Source Control Program issued 2/23/1998.

C-4. Wetlands

Ensure no net loss of wetlands functions and values, that wetlands of special significance are identified and protected, and that the loss of all wetlands due to regulated activity is minimized. Maintain and analyze data base and assessment methods so that a measurable objective may be set.

Outcome Measures: (a) net change in wetlands of special significance; (b) net change in other wetlands (insufficient information currently available, to set measures).

Background: With limited exceptions, the DEP regulates wetland alterations of 4,300 sq. ft. or larger. The DEP does not regulate, and has no way of tracking, the accumulated loss of smaller wetlands areas. Therefore, this objective uses the term "wetlands of special significance", which is contained in DEP's wetland regulations and is a subset of all wetlands. Within this limited framework, DEP's control over the achievement of this objective is relatively high.

C-4-01. Implement a Wetlands Program

Provide a wetlands program featuring implementation of standards, monitoring and assessment, educational and technical assistance, and planning. A broad-based priority in FFY01 is implementation of the State Wetlands Conservation Plan. It includes activities that would fall within each of the following categories.

C-4-01-a. Standards

Provide review pursuant to the Natural Resources Protection Act for proposed alterations of wetlands. Priorities for FFY01 include (a) based upon completion of the Casco Bay Wetland Project, developing a program to use compensation fees to target compensation at the highest priority areas; and (b) continuing coordination on all wetlands permitting efforts with the federal agencies.

C-4-01-b. Monitoring and Assessment

Participate in pilot studies and special projects as needs and resources permit. Priorities for FFY01 include the following: (a) participate in the Biological Assessment Wetland Workgroup (BAWWG) and the New England Biological Assessment of Wetlands Workgroup (NEBAWWG). (The Department will develop sampling protocols for wetlands as part of a pilot bioassessment project in the Casco Bay Watershed. This 3-year pilot ends in 2002, but the Department will be working on protocols beyond that); (b) maintain a system to track loss of wetlands from permitted activities, and make it GIS-based; and (c) initiate second watershed wetland assessment project based on the Casco Bay pilot project model in southern Maine; and (d) submit an annual wetlands loss and gain report to EPA by August 15, 2001.

C-4-01-c. Education and Technical Assistance

Promote use of effective BMPs and land management practices; promote local stewardship of local resources; increase public awareness of resource values, pollution threats, environmental standards, and individual opportunities; and address chronic non-point sources in priority watersheds. A priority for FFY01 is continuing training for code enforcement officers and realtors.

C-4-01-d. Planning

Participate in needed planning efforts to increase inter-agency coordination and to better prioritize use of available resources. Priorities for FFY01 include: (a) by January 2001, developing priorities with state and federal partners for wetlands in the Casco Bay watershed using pilot project data (with annual report to EPA by March 1, 2001); and (b) investigating status of state wetland laws and rules for consistency with other surface water quality standards by 2001, and recommending changes to address any significant inconsistencies.

C-5. Groundwater

By 2001, have the fundamental understanding and data necessary to set measurable objectives for the protection of groundwater quality and evaluation of use, value and vulnerability.

Outcome Measures: Current information insufficient to set measures.

Background: Groundwater protection and restoration has largely been conducted in the course of monitoring and remediation of particular sources regulated by the Bureau of Remediation and Waste Management (e.g. landfills, hazardous waste sites, and underground storage tanks). Monitoring is conducted at those facilities and at certain other sites licensed by the Bureau of Land and Water Quality. Groundwater quality is also monitored by the regular testing required of public water suppliers by the Department of Human Services. At present, however, there is no systematic state-wide program for the regular monitoring of groundwater quality, nor is such monitoring undertaken by federal agencies or, at local scale, by municipalities.

A need therefore exists for a systematic approach toward assessment of risks to groundwater, incorporating use, value, and vulnerability of the resource. As part of developing a comprehensive groundwater protection program for Maine, the Bureau of Land and Water Quality is developing a methodology that incorporates geologic data and data on known contamination sites to evaluate risk to the groundwater resource on a state-wide basis. This will support existing methods for establishing remediation priorities in the Bureau of Remediation and Waste Management, which has the primary responsibility for restoration of groundwater quality at contaminated sites. It will also provide a means for efficiently directing resources toward groundwater areas at risk.

C-5-01. Continue to Support Groundwater Protection

Continue to support groundwater protection through development and implementation of standards, monitoring and assessment, and educational and technical assistance.

C-5-01-a. Standards

Implement and continue to appropriately develop laws that regulate activities that may cause or contribute to groundwater pollution such as the Wastewater Discharge Law (ex. Underground Injection Control Program), Stormwater Management Law, Excavation and Quarry Laws, and Site Location of Development Law. Priorities for FFY01 include focusing certain protection efforts on prioritized wellhead protection areas. In the Underground Injection Control (UIC) Program, activities for FFY01 will be focused on developing revised primacy applications for E.P.A, and conducting field surveys in the Saco River watershed.

C-5-01-b. Monitoring and Assessment

Participate in pilot studies and special projects as needs and resources permit. Priorities for FFY01 include: (a) extending use of the groundwater vulnerability methodology from pilot project areas to certain other areas; (b) establishing the groundwater GIS database, and then integrating its use and maintenance among agencies; and (c) identifying sources of pollution using the contaminant source inventory in priority watersheds, and prioritizing supplies and dependent resources and habitats for protection.

C-5-01-c. Education and Outreach

Identify municipal needs for information on issues of concern related to groundwater, and provide leadership groundwater education efforts directed toward the general public.

C-6. Watershed and Ecosystem Health

Continue to work to protect ecosystems and, by 2005, develop the information base needed to establish measurable objectives for the protection of ecosystem health.

Outcome Measures: Use of biological criteria for rivers and streams as health measures.

Background: While DEP's other water objectives are specific to water body type, the natural world does not observe such boundaries: streams and groundwater flow into lakes, rivers into estuaries, etc. These resources must be looked at holistically, as the sum total of the conditions of a particular place, including consideration of social, cultural, and economic influences. A key management tool for ecosystem protection is the watershed approach, which involves a coalition of private and public entities. To be effective, DEP must rely on influence, rather than control, to achieve ecosystem protection. However, we have a high level of control over the development of ecosystem indicators. If the resources are applied to this activity, indicators can be developed.

C-6-01. Continue to Support Ecosystem Protection

Continue to support watershed and ecosystem health through the development and implementation of standards, monitoring and assessment, educational and technical assistance, and planning.

C-6-01-a. Standards

Implement and continue to appropriately develop laws that regulate activities that may cause or contribute to environmental damage. Priorities for FFY01 include: (a) inspecting 100% of all new Site Location permits; (b) monitoring compliance with the erosion and sedimentation control law; and (c) developing BMP rules for the priority 4 and 5 category sand/salt sites.

C-6-01-b. Monitoring and Assessment

Priorities for FFY01 include: (a) adopting numeric biological criteria rules for rivers and streams; (b) developing indicators of ecological condition using periphyton indicators, a NPS biological impact screening tool, and wetland bioassessment and criteria approaches; (c) assessing and prioritizing wetlands and riparian lands for protection; (d) providing annual update of water body assessments to EPA; (e) continuing to assess existing and potential sources of pollution to lakes, streams and coastal waters using volunteer watershed surveys and other assessment approaches; (f) continuing to work in cooperation with a workgroup of state agencies and non-agency personnel, to assess status of our knowledge about aquatic biodiversity and identification of issues requiring further study; (g) providing EPA with available DEP surface/groundwater GIS data; (h) developing a pilot program for assessing cumulative impacts of development in high growth areas; (i) implement the Assessment Database System (ADB) for electronic 305(b) water body assessments (during FFY01) and submit the water body files that have been updated since the last electronic reporting through the ADB and begin implementing STORET (during FFY02). (EPA will provide contractor assistance and a new computer for data systems related to 305(b) and 303(d) reporting and mapping); and (j) complete the next 305(b) report by April 1, 2002.

C-6-01-c. Education and Technical Assistance; Grants and Loans

Continue NPS Awareness Campaign; support DEP Stewardship Campaign; continue the Nonpoint Source Resource and Training Center and other activities; and provide technical assistance to municipalities to increase local capacity to review development projects. Priorities for FFY01 include (a) conducting initial public outreach based upon the new invasive plants law; (b) allocating incremental Clean Water Action Plan (CWAP) 319 funds to implement "restoration action strategies" for selected subwatersheds within restoration watersheds (Category # 1 under the Unified Watershed Assessment); and (c) continuing to seek funding to support the priority watershed grant program.

C-6-01-d. Planning

Priorities for FFY01 include: (a) working with the Maine Watershed Management Committee to identify opportunities and actions that can be taken collaboratively and individually to protect or restore water resources within any of the listed NPS Priority Watersheds

C-6-01-e. Salmon Conservation

Continue to participate in an interagency effort to implement the Atlantic Salmon Conservation Plan. Water quality is being monitored on all of the salmon rivers. Funds from the 319 grant program are being directed to control nonpoint sources in the salmon river watersheds. Staff from both the land and water programs are focusing compliance and enforcement efforts in these watersheds. Through the next work item, the issue of water withdrawals and possible impacts on salmon and their habitat will also be considered.

C-6-02. Address Usage Issues as Appropriate

As appropriate, assist in resolving usage issues, such as water withdrawal, water levels and dam relicensing. The priority for FFY01 is to co-chair a workgroup developing flow related policies, under the direction of the Land and Water Resources Council.

C-6-03. Provide Leadership in Environmental Protection

Initiate and participate in the identification and resolution of emerging land and water quality issues, and development of methods of land and water quality protection. Foster development of innovative technologies that minimize or eliminate pollution and encourage facilities to operate beyond compliance. Priorities in FFY01 include identifying and encouraging methods of pollution prevention; and continuing to explore and support sustainable development approaches. We will also try to find funding to support a pilot program to do targeted multi-resource environmental impact assessments in areas experiencing significant growth and cumulative impacts from development. This information would be provided to regional planning organizations and towns so that they could use the information in their own planning and permitting programs. We will also review our shoreland zoning program for consistency with the objectives of the Smart Growth initiative.

C-7. Regulatory Compliance

This compliance strategy identifies initiatives that will be the focus of compliance and enforcement resources for the Maine Department of Environmental Protection (DEP) and the EPA Region I (EPA) during FFY01 and 02 under the Clean Water Act ("CWA"). This FFY01-02 compliance strategy links compliance and enforcement actions identified in the body of the PPA for the fiscal years with base program compliance and enforcement activities identified in the July 1998 EPA/DEP Memorandum of Understanding ("MOU"), as amended November 1999. Together these documents, with the PPA work plan, present the elements of a cohesive compliance assurance program. The goal of DEP's and EPA's compliance and enforcement efforts is to provide a credible deterrent and promote compliance with the CWA and state water laws via the combined efforts of EPA and DEP by using an integrated range of enforcement and compliance assurance tools.

DEP and EPA acknowledge this strategy as a dynamic plan that can be amended or modified upon agreement of the parties during FFY00-01. Although the EPA/DEP MOU developed in July 1998 is not likely to change year to year, it may be modified by agreement of the parties.

Core Program Activities

Unlike other program compliance plans, this document does not contain significant details on many core program activities. Since the type or quantity of those core program activities does not substantially change year-to-year, detailed descriptions of those activities are found in the EPA/DEP 1998 MOU. The following is a combination of brief descriptions of MOU items and other core activities not contained therein.

C-7-01. Compliance Monitoring

C-7-01-a. Maintain an Adequate Compliance Monitoring and Inspection Field Presence for Direct Dischargers

The Memorandum of Understanding delineates the process for maintaining a field presence in inspections, and for interagency coordination. As stated therein, DEP will at a minimum inspect 30 major facilities and 30 significant minor facilities during both FFY01 and FFY02.

MEASURES OF SUCCESS

- *Inspecting 30 major facilities and 30 significant minor facilities in both FFY01 and FFY02.*
- *96% of the major facilities will be in compliance with licensed BOD/TSS limits in FFY01 and FFY02.*

C-7-01-b. Combined Sewer Overflows (“CSO”).

Update 8/2000. Federal funding for this program is not expected to be adequate to support it at current levels. Within the limits of available resources and competing priorities, DEP will address up to 20 percent of the priority CSOs annually.

The CSO initiative continues in FFY01 with EPA and DEP committing compliance/enforcement efforts at regulated facilities and/or collection systems that contribute to water quality impairment, shellfish bed and beach closures, and drinking water impacts. This is primarily accomplished by continuing to enforce CSO permit/license requirements and the prohibition against Dry Weather Overflows (“DWOs”); review and provide comments on Nine Minimum Controls (“NMC”) Reports and Long Term Control Plans (“LTCP”); and ensure abatement plan implementation to achieve compliance with the technically-based and water quality-based requirements of state and federal laws and EPA's National CSO Policy. In order to ensure the execution of approved LTCPs (and their associated implementation schedules), the DEP will continue to incorporate the approved schedules in wastewater discharge licenses and/or non-penalty consent agreements. When necessary, EPA will continue to incorporate approved schedules or require the development of CSO abatement plans in formal federal enforcement actions. The EPA New England CSO/SSO Response Plan of September 2000 is incorporated in this Agreement by reference.

MEASURE OF SUCCESS

- *For all CSO community facilities appropriate and approved LTCP schedules will be incorporated in license renewal actions; 95% of the CSO communities will be in compliance with their approved LTCP.*

C-7-01-c. Separated Sanitary Overflows (“SSO”)

Update 8/2000: Federal funding for this program is not expected to be adequate to support it at current levels. Within the limits of available resources and competing priorities, DEP will address up to 20 percent of the priority CSOs annually.

DEP will assist EPA in identifying and assessing the magnitude of the universe of separated sanitary overflows. DEP, to the extent SSOs are identified in Maine, will assist EPA in implementing its Regional SSO bypass tracking system during FFY01. The EPA New England CSO/SSO Response Plan of September 2000 is incorporated in this Agreement by reference.

MEASURE OF SUCCESS

- *Identify universe of SSOs in Maine; provide SSO bypass, if applicable, information to EPA on standardized report forms.*

C-7-01-d. Underground Injection Control

Update 8/2000: Activities (1) through (3) will not be conducted in FFY01. Instead, the DEP will focus its efforts on developing the UIC primacy application for EPA.

- 1) Using the existing facility inspection priority system, DEP will focus UIC inspections in the St John/Presumpscot Watershed over the next two FYs.
- 2) Contingent upon availability of GIS resources, DEP will identify all potential pollution sources within ½ mile radius of public water supplies, and coordinate with appropriate media program (RCRA, UST, Uncontrolled Sites, etc.).
- 3) Using the UIC data base, follow up on facilities that are out of compliance.

MEASURE OF SUCCESS

- *Conduct 250 UIC inspections/year in the St John/Presumpscot Watersheds in FFY01-02.*

C-7-01-e. Pretreatment

DEP will assist EPA in the identification of significant industrial users discharging process wastewaters into municipal treatment plants that do not have federally approved industrial pretreatment programs. DEP will assist EPA in collection of information during an industrial or municipal pretreatment investigation. DEP will assist EPA by providing technical support or consultation during the development of a municipal or industrial pretreatment enforcement case.

DEP will conduct four (4) municipal pretreatment compliance inspections ("PCIs") for FFY01-02: two (2) will be completed by 6/30/00 and two (2) more by 6/30/01. During a PCI, DEP will perform at least one (1) significant industrial user inspection, and prepare reports for each PCI. The DEP will assist EPA with pretreatment municipal audits or industrial PCIs.

DEP, on an as needed basis, will review/comment on municipal annual pretreatment reports, proposed technically based industrial discharge limits, legal authority, enforcement review plans, industrial discharge permits and or any "substantial modification" listed under 40 CFR § 403.18. DEP will provide pretreatment technical assistance to all POTWs on an as needed basis.

EPA will, with input from the DEP, perform industrial user inspections, along with those identified from DEP leads and copy DEP on all inspection reports; perform pretreatment enforcement (informal and formal) and coordinate with the DEP on all such actions.

MEASURE OF SUCCESS

- *DEP will conduct four (4) PCIs in FFY01-02 and will forward inspection reports to EPA.*

C-7-01-g. State O&M Compliance Evaluations

MEDEP O&M staff will evaluate federally-funded wastewater treatment facilities that have met all first-year project performance certification requirements, have a design capacity of less than 5 MGD, and have operation and maintenance compliance problems.

C-7-01-h. Spill Prevention Countermeasure and Control (“SPCC”)

EPA will conduct inspections in response to any major accidental release and will initiate enforcement actions as appropriate to ensure that compliance with Section 311 of the CWA is achieved and maintained. The DEP will continue to encourage all facilities to report releases to the Federal National Response Center.

MEASURE OF SUCCESS

- *EPA conducts inspections and enforcement based upon release reports, region team targeting, tips, complaints, and referrals.*

C-7-01-i. Wetlands Coordination

DEP and EPA will work to improve coordination and communications among federal and state agencies and the public on wetlands issues. Occasionally, DEP will refer a case to EPA that it believes to be in violation of federal laws. Similarly, EPA and the Corps will refer small cases in violation of state law to DEP.

MEASURE OF SUCCESS

- *Inspecting 100 % of Tier II and III projects that were required to provide compensation.*

C-7-02. Compliance Assistance

C-7-02-a. Education and Outreach

DEP will continue to assist the Joint Environmental Training Coordinating Committee (“JETCC”) with operator certification training; publish O&M monthly newsletters; and sponsor specialty training sessions (toxicity reduction evaluations; clean sampling techniques, etc) on an as needed basis and as financial resources allow.

C-7-02-b. Technical Assistance

DEP will continue to provide technical assistance to waste water treatment plant personnel during routine compliance inspections on an as needed basis. Update 8/2000: These activities will only be conducted as resources allow, due to 104(G) flat funding.

C-7-03. Significant Non-Compliance

During FFY01-02, EPA Headquarters expects to see no more than 2% of the State's major NPDES facilities on the so-called "Exceptions List" for any given quarter.

MEASURE OF SUCCESS

- *Not more than two(2) NPDES facilities are reported on EPA Headquarters' Exceptions List for any given quarter. DEP and EPA have 4 QNCR meetings in each FFY.*

C-7-04. Data Management

DEP will continue to maintain the timeliness and accuracy of DMR data entered into the PCS system. These efforts include regionalizing data entry, data entry screens to reduce errors, automated reports to identify delinquent reports, and manually checking the data for accuracy and completeness. EPA will forward information on potential financial resources to assist the DEP in completing this task, and will provide technical assistance and training on an as-needed basis.

MEASURES OF SUCCESS

- *Complete development of compliance tracking system and consistently utilize and upgrade the system as needed.*
- *As a result of improved data management, it will not take more than one week for either EPA or DEP to prepare for the QNCR quarterly meeting.*
- *Timely and accurate compliance, inspection, an enforcement data is entered in PCS.*

C7-05. Policies and Special Initiatives

C-7-05-a. Delegation

DEP submitted a delegation application to EPA in November 1999. EPA, in turn, will make every effort to complete the processing and issue its decision in accordance to timelines required in federal regulations. EPA will continue to take the lead on the pretreatment program pending approval of delegation and full phase-in of the pretreatment program in December 2000. EPA will also assist in providing training opportunities for staff, especially in the areas of pretreatment compliance inspections, audits and enforcement and stormwater compliance-enforcement including data management.

MEASURES OF SUCCESS

- *DEP submits delegation application in Fall 1999, and EPA issues a timely decision in accordance with federal requirements.*

C-7-05-b. Effluent Toxics Testing

DEP will continue its investment in maintaining improvements to the effluent toxics program that was initiated with the Toxicity Testing Program Action Plan (April 1998). These efforts in FFY01-02 will include the following compliance efforts:

- 1) Ensuring timely submittal of toxicity data that meets QA/QC requirements;
- 2) Responding to toxicity exceedence and/or reasonable potential for exceedence values promptly;
- 3) Providing technical assistance, training and guidance to facilities on reducing toxic pollutants in their effluent;
- 4) Coordinating with the Drinking Water Program on corrosion control efforts; and
- 5) Making exceedences a high priority for follow-up compliance/enforcement action (such as toxicity reduction evaluations, and reopening permits to include license limits).
- 6) Conduct rulemaking to adopt EPA's new recommended ambient water quality criteria.

MEASURE OF SUCCESS

- *100% of facilities submit toxics testing requirements in a timely manner.*
- *Revise the Toxics rule to include revised water quality criteria published by EPA.*

C-7-05-c. Dioxin

During FFY01 and 02 DEP will monitor compliance with and enforce the state law that requires:

- 1) non-detect for TCDF by 12/31/99; and propose enforcement response for those facilities out of compliance.
- 2) that fish below bleach kraft mills have the same dioxin levels in tissue as fish above mill outfalls by 2002.
- 3) Incorporate multimedia and interagency coordination with EPA and the Air Program, to get the bleached kraft mills into compliance with the Cluster Rules.

C-7-05-d. Mercury

- 1) Implement provisions of the 1999 mercury legislation (Chapter 500) to include rule-making to develop facility specific, interim mercury limits.
- 2) Convene stakeholder group to develop and implement model mercury P2 plans. Update 8/2000: This item is complete.
- 3) Monitor compliance with interim mercury limits and implementation of facility specific P2 plans.

MEASURE OF SUCCESS

- *Promulgation of an interim mercury limit rule and development of model mercury P2 plans.*
- *Instituting multi-program, interagency coordination to bring chlor-alkali facilities into compliance with State and Federal rules and regulations*

C-7-05-e. Geographic Targeting

C-7-05-e-1. Watersheds

Update 8/2000:

The DEP is no longer using the "5-year watershed approach", and so is no longer focusing as described in (A), except for water quality evaluation. The DEP has developed a 3-year schedule to reduce/eliminate the backlog of expired permits.

MEASURES OF SUCCESS

- *Complete inspections, any water quality evaluations, enforcement, and licensing actions as appropriate.*

C-7-05-e-2. Seven Salmon Rivers

DEP, and depending on resources, EPA, will focus compliance inspections on facilities that discharge to the Narraguagus, Pleasant, Machias, East Machias, Sheepscot, Ducktrap, and Dennys Rivers.

MEASURES OF SUCCESS

- *Complete compliance inspections of facilities in these watersheds.*
- *Provide EPA with a list of planned and completed inspections of facilities discharging into these rivers*

C-7-05-f. Shellfish Restoration

DEP will continue to work with the Maine Department of Marine Resources ("DMR") and the Regional Planning Commissions to develop a coordinated approach for focusing resources on priority areas of concern, including the use of Overboard Discharge Grants and Small Community Grants, enforcement, education/outreach, etc. to restore identified redeemable shellfish areas.

MEASURES OF SUCCESS

- *Conduct annual review meetings with DMR.*
- *Complete sanitary survey work and enforcement follow-up as needed in the towns of Hancock, Franklin, Sullivan, Vinalhaven and Cushing.*

C-7-05-g. Corrinna Sewer District

DEP will work with the District to remove the existing treatment plant outfall from the Sebasticook River, replacing it with either a land application system or a discharge downstream of Sebasticook Lake. Update: 8/2000: A decision has been made to use a land application system.

MEASURE OF SUCCESS

- *Tracking and ensuring implementation of the approved schedule included in the District's State waste discharge license.*

C-7-06. Sector Initiatives

C-7-06-a. EPA's Industrial Sector Team

The metal services sector will be a focus for EPA during FFY01. DEP will refer appropriate facilities to EPA for follow-up compliance and enforcement action where needed.

MEASURE OF SUCCESS

- *DEP will assist EPA on any compliance and enforcement cases in this sector during FFY01.*

C-7-06-b. Industrial Sector Storm Water

EPA will target industrial sector(s) with the most serious toxic discharge(s) for a blend of compliance assistance and enforcement. DEP will provide the EPA with leads/tips for assistance/enforcement within the selected industrial sector(s).

MEASURES OF SUCCESS

- *DEP to provide pertinent information to EPA upon request.*

C-7-06-c. Concentrated Animal Feeding Operations ("CAFOs")

1. DEP will implement pertinent requirements on CAFOs and Animal Feeding Operations ("AFOs") as identified in the *Maine Nonpoint Source Control Program Upgrade & 15 Year Strategy* as approved by EPA on 10/13/99.
2. DEP will enter into a MOU with the Department of Agriculture, Food and Rural Resources ("DAFRR") to document a coordinated review/licensing/compliance program for CAFOs/AFOs. Pursuant to the MOU, DEP and DAFRR will identify the universe of CAFOs (including any state/federal facilities) and will ensure that all the CAFOs are inspected by FFY01.

MEASURES OF SUCCESS

- *Submit to EPA the final MOU with DAFRR by January 1, 2001.*
Update 8/2000: The MOU has been completed.
- *Identify universe of CAFOs*
to EPA by January 1, 2001. Provide the name and location of each CAFO, the approximate number and type of animals managed, and if applicable, identify any receiving waters impacted by the CAFO. Ensure 100% inspection by close of FFY01.

C-7-06-d. Biosolids disposal or beneficial reuse

The program will coordinate with the DEP Sludge and Residuals Unit to conduct licensing, inspection and enforcement activities that ensure landspreading activities does not adversely impact groundwater and surface water resources. EPA will be consulted regarding technical issues related to pathogens and metals.

Appendix A.

Programs in the Bureau of Land and Water Quality are supported by funding sources as follows:

- State General Fund: Water Quality Monitoring; Environmental Assessment; Lakes Protection; Marine Waters Protection; Groundwater Protection; Wastewater Discharge Licensing; Over-Board Discharge Licensing; Land Licenses and Permits; Hydropower Licensing; Natural Resource Protection Areas Management; Compliance Inspections; Violation Enforcement; Non-Point Source Pollution Control Technical Assistance; Non-Point Source Pollution Control Grants Management; Non-Point Source Pollution Control Training; Watershed Management; Wetlands Protection; Coastal Zone Management
Salmon/Mercury Monitoring; Wastewater Treatment Plant Operator Licensing and Training; Education and Outreach; Data Management; and Finance and Administration.
- State Fees: Wastewater Discharge Licensing; Over-Board Discharge Licensing; Land Licenses and Permits; Gravel Pit Registration and Licenses; Compliance Inspections; Hydropower Licensing; Dioxin Monitoring; Outdoor Heritage Projects; Data Management; violation enforcement; and compliance inspections.
- Federal Performance Partnership Grant: Water Quality Monitoring; Environmental Assessment; Lakes Protection; Groundwater Protection; Compliance Inspections; Violation Enforcement; Non-Point Source Pollution Control Technical Assistance; Non-Point Source Pollution Control Grants Management; Non-Point Source Pollution Control Training; Wetlands Protection; Pollution Prevention; Combined Sewer

Overflows Abatement; Underground Injection Control Regulation and Abatement; Data Management; and Education and Outreach.

- Other Federal: Coastal Zone Management; Wastewater Treatment Facility Revolving Loan Fund; Water Quality Planning Grants; Boat Pump-Out Program; Wastewater Treatment Plant Operator Training; State Wastewater Treatment Facility Construction Revolving Loan Fund; and Construction and Upgrades of Wastewater Treatment Facilities.

D. MATERIALS HANDLING

GOAL: To protect public health, safety, and welfare and the environment from pollution by oil, hazardous substances, solid waste or septage.

OVERALL PERFORMANCE BUDGET OBJECTIVE:

Decrease the number of solid waste, hazardous substance, and petroleum contaminated sites that pose an unacceptable risk to public health, safety, welfare, and the environment.

ISSUE STATEMENT:

Its natural resources are a major factor in why people choose to live and vacation in Maine. The mountains and forests, the rivers, lakes, and ocean, and the landscape in general draw people from far and wide. Human activity, however unintentional, can put these obvious assets, and less visible assets such as groundwater, at risk. Petroleum or hazardous substance spills, tire stockpiles, and improper waste disposal are some of the undesirable by-products of activities that sustain our economy. Through education, technical assistance, and regulation designed to protect our resources and to remediate activities that may put them and the public in jeopardy, the Department will continue to apply strong science and both traditional and innovative approaches to better manage the handling of petroleum products, hazardous substances, and solid waste. The Department will continue to identify the risks posed by activities and sites of concern in order to prioritize program tasks and calibrate appropriate levels of effort.

FUNDING SOURCES:

In FFY01, funding to support programs will come from the state General Fund, dedicated funds derived from fee payments, and federal funds consisting of Performance Partnership Grant (PPG) programs through the EPA, non-PPG EPA programs, and programs administered by other federal agencies.

RECENT PERFORMANCE:

The following information pertains to other than compliance-related efforts. Refer to the Compliance section for recent compliance/enforcement activities in the following five (5) program areas.

RCRA (C) Hazardous Wastes Program

In general, the State has met or exceeded most grant commitments. The following represents a more detailed summary. The state worked on 10 corrective actions and 5 closure plans during this grant year. The end of year summary with applicable milestones just required finalization. All applications filed during the grant year were evaluated. Two full facility projects are ongoing with 6 abbreviated licenses issued and three more pending and expected to be issued before the end of the grant year. A development plan was sent to EPA regarding rule adoption and the authorization process. The Universal Waste rule has consumed a considerable amount of time and per the development plan, the schedule is now outdated. At least three seminars were held for hazardous waste generators during the grant year.

RCRA (I) UST/Oil Enforcement Program

During the period a number of projects were initiated. An evaluation of the effectiveness of the Underground Storage Tank (UST) annual inspection report system was conducted and the report received in July is being analyzed. Additionally, an evaluation of cathodic protection of USTs is underway, with a report due in the fall of 2000. This past legislative session, the Department was successful in gaining approval for continuation of the AST replacement program, which had operated as a pilot project in 1999 and 2000. The program will now continue until at least December 31, 2005. Additionally, a grant/loan program for removal of the remaining homeowner USTs was established while the loan program administered through the Finance Authority of Maine continues. A training program on leak detection and maintenance requirements for UST owners and operators was developed and delivered five (5) times. Finally, the Bureau of Remediation and Waste Management and the Bureau of Air Quality jointly developed a program to recognize UST retail facilities demonstrating exemplary compliance with UST and vapor recovery regulations.

Asbestos and Lead

The DEP has met all PPA 2000 commitments in lead and asbestos, except staff is in the process of completing rule revisions to the "Asbestos Management Regulations". Program staff also performed education and outreach activities beyond those required by the PPA to help prevent the release of asbestos fibers and lead dust into the environment.

In order to better coordinate the asbestos and lead programs and thus achieve more efficient use of staff resources, the day-to-day operations of both programs were placed under the direction of the Unit Manager of Planning and Program Assistance for the Division of Solid Waste Management in June, 2000. This change enabled the previous coordinator of the Asbestos Program to focus his expertise on revising the "Asbestos Management Regulations" as required by the PPA. Over this past year, individual staff members have been trained to perform a wider range of tasks in compliance, enforcement and technical assistance in both lead and asbestos.

This provides greater flexibility and more dependable back up for staff members who have primary responsibility for inspections, enforcement and educational outreach, as the DEP seeks to implement a comprehensive, statewide program to achieve lead and asbestos hazard prevention.

In 2000, DEP's Lead and Asbestos Hazard Prevention Program (LAHPP) processed all lead and asbestos licensing applications received from contractors, consultants, and trainers and certification applications from professionals. Staff was actively involved in regional reciprocity efforts, attending and participating in all CONES/CONEST meetings and conference calls, including chairing the Asbestos CONES group, and utilizing the CERT and CLASS database programs in order to share information regionally. We also participated in NELCC meetings as appropriate to coordinate lead education and outreach efforts in New England. Staff also attended EPA's Annual National Lead Conference in June and the EPA/HUD/CDC National Conference in December, as well as presenting at the Annual National Asbestos Conference in April. All of these conferences were helpful in providing a larger context to our local efforts.

The LAHPP continued to implement the terms of our MOU with the five Native American tribes in Maine. The MOU was entered into in 1998 with the Aroostook Band of Micmacs, the Houlton Band of Maliseets, and the Passamaquoddy at Indian Township, with the Passamaquoddy at Pleasant Point in 1999, and with the Penobscot Indian Nation in 2000. The tribes received funding for training activities as well as technical assistance for lead inspection activities from the LAHPP in 2000.

The LAHPP continued its close cooperation with Maine's Childhood Lead Poisoning Prevention Program by providing technical assistance to homeowners with lead-poisoned children. We also continued our close working relationship with the Maine State Housing Authority (MSHA), providing extensive and comprehensive one-on-one training to Community Action Program staff who are working to implement MSHA's Lead Hazard Reduction Program funded by a grant from HUD. We also established new connections with the public housing authorities across Maine. LAHPP staff developed a "Statement of Inadequate Capacity" for Governor King to submit to HUD to gain a 6-month transition period for implementation of HUD's new Lead Safe Housing Regulation. We also worked with MSHA, the Maine Department of Economic and Community Development and local housing authorities to create a "Transition Implementation Plan" for state agencies and local public housing authorities to come into compliance with the new HUD Lead-Safe Housing Regulation.

Staff gave numerous presentations on our program at all initial training courses and at some refresher training courses. We continue to provide general educational materials for lead-safe renovations and the safe removal of asbestos siding by homeowners. We also continue to distribute educational materials for the federal 1018 Real Estate Notification requirements and EPA's 406 Pre-Renovation Rule. Additionally, staff developed and disseminated outreach materials on AHERA requirements to school designated persons, and on asbestos survey and removal requirements prior to demolitions to municipal officials.

DEP staff continued efforts to revise both the Lead and Asbestos Management Regulations. A redraft of Maine's asbestos regulations was completed in August, and circulated to the regulated community for informal comment. Workshops to solicit comments on the proposed changes were also held in 3 locations. In response to the over 200 comments received, DEP is completing a final redraft, and expects to enter into the formal rule-making process early in 2001. Minor revisions to the lead regulations are currently in the formal rule-making process, and will be completed by March; these revisions will help to build the capacity of lead professionals in Maine needed to fully implement the new HUD Lead-Safe Housing Rule.

Compliance

We continued compliance and enforcement activities required of us as the delegated NESHAP agency, the authorized 402 program, and as a waiver state for AHERA activities. This included conducting targeted field inspections of contractors, auditing of training providers, investigating tips and complaints, performing 45 AHERA inspections, and processing all licensing and certification applications received. We also became more proactive in offering guidance and technical assistance to designated groups to help prevent compliance problems. This included: outreach activities on demolition requirements to some of the larger cities, including a voluntary tracking system to help us assess compliance; the development of easy-to-read guidance on proper floor tile maintenance to school administrative and maintenance personnel; guidance on achieving AHERA compliance to LEAs; and guidance on the proper disposal of lead-contaminated debris.

In 2000, our AHERA inspections were focused on small, private schools that had not yet been inspected. At the end of the year we revised the Neutral Administrative Inspection Scheme (NAIS) that guides our selection of schools for AHERA inspections; we will be implementing this new scheme in January, 2001. Our training course audit efforts were focused on training providers offering a course for the first time and on initial training courses, resulting in 8 complete course audits and 5 partial course audits. We also provided separate, technical assistance sessions with training providers in follow-up to audits to assist them in improving the overall quality and effectiveness of their courses.

As a result of our inspection program, enforcement follow-up was taken in 43 cases. Nine of these cases resulted in proposed consent agreements; we also completed seven consent agreements that were in the process of negotiation as of January 1, 2000.

The LAHPP continued to refine and streamline our databases used for tracking notifications, licenses and certifications, inspections, training course audits and training provider information, and housing inspected for lead hazards. These systems are utilized to target inspections, to meet NARS reporting requirements to EPA, to share information with other states and tribes to support reciprocity, and to provide up-to-date information to the general public on lead and asbestos abatement companies and professionals. Staff also worked on redesigning our compliance tracking database so that we can better identify common compliance problems to help target our education and outreach efforts.

The Maine Health and Environmental Testing Laboratory (HETL) maintained its accreditation for environmental lead analyses with financial support from the DEP/EPA PPA. DEP LAHPP staff maintained any individual certifications and participated in all safety training required by state and federal laws as needed to perform their jobs.

PCB

Due to a shortage in staff available to conduct the work proposed in the plan, we have been unable to complete the thirteen (13) PCB facility inspections anticipated in FY00. A request in January to substitute inspections for PCB-related projects as has been done in the past was unanswered and, when posed again in April, was denied. Additionally, EPA has reduced the FY 00 grant award by \$10,000, to \$30,000. In September the program filled the PCB inspector position. Regardless, in FY00 the Department conducted over ten (10) PCB projects including projects related to PCB discharges and spill investigations, PCB remediations and clean-ups, PCB-related generator closure projects, and waste PCB-related inspections and enforcement actions.

Compliance

RCRA(C) – Compliance: The Department committed to perform forty-five (45) hazardous waste RCRA inspections, and actually performed sixty-seven (67) inspections as follows:

<u>Inspection type</u>	<u>Commitment</u>	<u>Performed</u>
100-1000 kg/mo generators	7	8
treatment storage facilities	1	1
large quantity generators	6	7
complaints	17	36
non-notifier/partial inspections	8	9
transporter	1	1
habitual violator/follow-ups	3	3
land disposal facilities	2	2*

*-Instead of conducting a land disposal facility inspection at HoltraChem Manufacturing Co. in Orrington, the Department inspection program conducted thirteen (13) site visits between September 2000 and November 2000 to monitor facility shut-down and closure activities at this chlor-alkali plant. Production at the facility ceased in mid-September.

During FY00, the above inspections resulted in ten (10) consent agreement cases. Twenty-eight (28) other cases resulted in a Notice of Violation (NOV) or Letter of Warning (LOW) without a consent agreement. A total of thirty-eight (38) NOV's /LOW's were issued as a result of the cases initiated in FY00. During FY00, seven (7) consent agreements, including six (6) cases carried forward from prior commitments, were settled, resulting in the assessment of \$101,250.

During FY00, the Hazardous Waste Enforcement Unit worked on remediation, clean-up, corrective action or generator closure site assessment reviews related to enforcement cases at least fourteen (14) sites or facilities [Apollo Tanning, Brunswick Dry Cleaners, Crystal Cleaners, Dacso, Franklin Shoe, HoltraChem, Industrial Concrete Services, Maine DOT-Enfield, Pioneer Plastics, Schoenbrod Racing Shells, Sermatech, Sprague Electric, Wal-Mart, Woodtek]. These site assessment reviews involved coordinating review and approval of hydrogeological investigations/ sampling plans and remedial action activities related to hazardous waste contamination identified as a result of enforcement inspections or cases. Some of these projects represent carry-over workloads from prior commitments.

During FY00, the Hazardous Waste Program participated in at least six (6) speaking engagements related to hazardous waste management regulations, including presentations at the University of Southern Maine, and five (5) separate seminars for high school science teachers and administrators. [The Department had committed to do two (2) such engagements.]

During FY00, the Hazardous Waste Program has submitted data on compliance activities and significant non-compliers to EPA in a timely fashion and has administered data management projects related to the program including, manifest reviews, Annual Hazardous Waste Reports, Biennial Report data submission and support. In addition, the Program has worked on the development and rule-making for the Universal Waste Rule, compliance assistance activities including advisory opinions, and related projects. During FY00, the Department reconciled hundreds of manifest discrepancies and issued over thirty (30) LOW's or NOV's for improper completion or use of manifests.

PUBLIC PARTICIPATION:

To fulfill the public participation component of the PPA, the Bureau of Remediation and Waste Management held, on November 5, 1999, a public forum to present the Performance Partnership Agreement for FY 00. More than one thousand notifications of this event were mailed to various individuals and special interest groups. Approximately two dozen individuals attended the event.

Program managers presented their plans for implementation of the PPA elements as well as the use of the funds received in the Performance Partnership Grant. Most questions asked were answered at the event, though some follow-up was required.

In addition to this formal event, the PPA is discussed in the course of meetings with our various and numerous stakeholder groups throughout the period.

TIME FRAME:

Most of the objectives and strategies listed in this plan are multi-year or ongoing efforts. Short-term discrete tasks have been noted as such.

MEASURABLE OBJECTIVES:

D-1. Contaminated Sites

By the year 2002, decrease by 15% the number of solid waste, hazardous substance and petroleum contaminated sites¹² that pose an unacceptable risk to public health, safety, welfare and the environment.

Outcome Measures: (a) number of contaminated sites; (b) number of homes with contaminated drinking water; (c) number of sites returned to reuse; (d) number of plans reviewed; (e) number of final remedies selected; (f) number of sites under remediation; (g) number of sites with alternative water supplies; (h) number of hazardous waste facility closures conducted.

¹²As of July 1999, there are 446 hazardous substance and petroleum contaminated sites, 394 potentially contaminated solid waste sites (landfills), 440 state uncontrolled hazardous substance sites, 13 SUPERFUND sites, 167 Formerly Used Defense Sites, and 10 Department of Defense installations.

Background: The purpose of this objective is to clean-up or contain the existing waste and petroleum contaminated sites in order to provide clean drinking water, groundwater, soils, and surface water and to protect public health and safety. To the extent possible, these sites are returned to productive reuse as industrial, commercial, recreational, or residential properties.

D-1-01. Emergency Response

Conduct an effective emergency clean-up program responding to all reported spills of petroleum or hazardous substances.

D-1-02. Contaminated Sites

Conduct the clean up of petroleum and hazardous substances contaminated soil and groundwater sites. Complete report to the Legislature containing recommendations for accelerating clean-ups of petroleum contaminated sites under the Groundwater Oil Clean-up Fund.

D-1-03. Abandoned Sites

Conduct the clean up of State-uncontrolled hazardous substance sites, and participate in the clean-up of Voluntary Remedial Action Plan (VRAP) sites and return the sites to productive use.

D-1-04. “Federal Lead” Sites

Conduct the clean-up of SUPERFUND and Dept. of Defense sites.

D-1-05. Hazardous and Solid Waste Sites

Process closure plans, require and oversee corrective action to control leachate, stabilize and monitor sites, and maintain the integrity of the sites to prevent harm to the public health, safety, welfare and the environment

D-1-05-a. Closure Plans/Corrective Actions

Review, comment on, and make decisions on corrective action and closure plans for RCRA-C sites. Use available resources within the Uncontrolled Sites Program to accelerate progress in addressing the universe of RCRA-C corrective action sites.

D-1-05-b. Risk Assessments

Oversee risk assessments at RCRA sites. Make environmental indicators and final remedy decisions. Ensure public opportunity for comment on clean-up actions.

D-1-06. Financial Responsibility

Administer the third party damage claims and insurance programs to compensate persons for damages; determine eligibility and deductibles, and disburse funds to applicants to investigate and remediate discharges of oil from underground and aboveground storage tanks.

D-1-07. Outreach

Prepare and distribute to tank owners and operators educational materials which facilitate compliance with the leak detection and abandonment (removal) requirements, and provide guidance on state fund eligibility.

D-1-07-a. UST Removal

Implement a home heating oil UST removal loan program as a strategy to encourage home owner compliance with the past 1997 state removal deadline.

D-1-07-b. AST Replacement

Continue the home heating oil AST replacement program for low income home owners using the eleven regional Community Action Programs as the assistance providers.

D-1-07-b-1. Consider legislative changes regarding UST owner reporting requirements.

D-1-07-b-2. Continue the home heating oil AST replacement program in hydrogeological sensitive areas including islands and peninsulas.

D-1-07-b-3. Continue implementation of strict cost controls and close tracking of the Groundwater Oil Clean-up Fund to provide the funding necessary to meet the LUST program financial obligations.

D-1-07-b-4. Maintain a computerized oil contamination case tracking system for status and expenditures, continue health risk based prioritization of sites for allocation of funding, and continue monthly monitoring of the Fund. Provide semi-annual status reports to EPA.

D-1-08. Information Management

Maintain accurate state and national databases of hazardous waste and underground storage tank information.

D-1-08-a. Hazardous Waste

Information related to hazardous waste handlers, permits, closures, corrective actions, compliance and enforcement activities, and biennial report information will be reported to EPA for inclusion in the National RCRIS database. Reference Compliance section.

D-1-08-b. Oil

Information regarding compliance with leak detection and upgrade requirements, inspection, compliance and enforcement initiatives, confirmed releases from oil handling facilities, clean-ups initiated and completed, final remedy selection, and information relative to “state lead” clean-ups will be maintained and provided to EPA for inclusion in the national database. Reference Compliance section.

D-1-08-c. Enhance Use of Technology

Employ, where possible, more effective and efficient ways to both gather and share information related to various databases.

D-1-09. Program Implementation

Maintain adequate levels of trained staff in order to administer the hazardous waste, petroleum handling and PCB programs.

D-1-09-a. Training

Assess training needs of staff and seek cost effective training opportunities to ensure staff are adequately trained to effectively deliver program services. Participate in internal and EPA sponsored programs designed to train staff in delivery of technical assistance and regulatory guidance for UST owners and operators.

D-1-09-b. Staffing

Continue to assess the level and expertise of staffing required to accomplish the mission and objectives of the Department and the Performance Partnership Agreement.

D-1-10. Program Assessment

Complete and present to the Legislature an evaluation of the adequacy of total current clean-up program resources, with particular emphasis on petroleum sites. In addition, conduct an evaluation of insurance and other alternatives to the Groundwater Oil Clean-up Fund as a financial assurance mechanism, including but not limited to whether and how such alternative mechanisms provide greater release prevention incentives.

D-1-10-a. Reports

Submit reports to the Legislature in December 2000 and May 2001.

D-1-10-b. Funding

Examine various funding mechanisms and develop alternatives for consideration.

D-1-10-c. Stakeholder Outreach

Communicate and solicit input on the programmatic needs identified and on potential funding options.

D-2. Tire Stockpiles (This is a non-PPA program)

Within five years, eliminate the significant environmental and health hazards posed by tire stockpiles as measured, in part, through the removal of a minimum of 15 million tires from 1996 – 2002. Complete cleanup of 4 of the state's five largest tire piles.

Outcome Measures: (a) number of tires; (b) number of stockpiles; (c) number of tires removed; (d) condition of tire stockpiles; (e) number of tire stockpiles in compliance with standards.

Background: The purpose of this objective is to reduce or eliminate the tire hazards and water quality threats posed by tire stockpiles in Maine. The risks caused by tire stockpiles, such as fire potential, air pollution from open burning of tires, and other health-related risks, will be addressed through compliance, enforcement, and hazard abatement activities. Primary emphasis is placed on removal and processing of scrap tires for beneficial reuse.

D-2-01. Unlicensed Tire Stockpiles

Conduct compliance/enforcement activities as necessary to effect abatements, the cessation of use of unlicensed tire stockpiles, and to bring unlicensed stockpiles into compliance.

D-2-02. State Controlled Tire Stockpiles

Conduct abatements at state controlled tire stockpiles as financial resources are allocated.

D-2-03. Funding Mechanism

Investigate alternative means of funding to effect more abatements in the most expedient manner.

D-3. Waste and Petroleum Management

Annually, achieve the prevention of any significant new illegal discharges and emissions, and minimize other risks to public health, safety, welfare, and the environment associated with the siting, design and operation of solid waste, septage, hazardous substance and petroleum facilities.

Outcome Measures¹³: (a) number of applications and registrations processed; (b) number of licenses issued; (c) complaints investigated; (d) compliance inspections conducted; (e) violations documented; (f) enforcement actions initiated; (g) technical assistance and education and outreach activities conducted (h) underground tanks removed; (i) wells affected; (j) the number of work years spent on applications; (k) the number of work years spent on complaint response, inspections and enforcement activities.

Background: The purpose of this objective is to prevent the occurrence of discharges and contaminated sites which pose unacceptable risks, and to ensure that all waste facilities are sited, designed, and operated in a manner that is protective of public health, safety, welfare, and the environment. Efforts are accomplished, in part, through the application of regulatory standards as well as pollution prevention efforts where practical.

D-3-01. Application Processing

Process applications and approve those that meet or exceed siting, design and operational requirements established in rule.

D-3-01-a. Evaluate, provide comments, and make decisions on full facility and abbreviated license applications (RCRA-C).

D-3-01-b. Ensure opportunity for public comment and incorporate public comments into decisions as applicable.

D-3-01-c. Evaluate and process underground oil storage facility removal notices and new facility registrations.

D-3-01-d. Collect relevant data and consider and develop, as appropriate, statutory and/or regulatory changes to the UST rules in the areas of siting, annual inspections, and cathodic protection that would further minimize releases or the consequences thereof.

D-3-01-e. Process applications to the Groundwater Oil Clean-up Fund and present appeals to the Fund Insurance Review Board as necessary.

¹³It is recognized that these measures may be more accurately described as outputs as opposed to outcomes. However, the quandary created by the questions "How does one measure prevention?" and "How does one measure risk?" has yet to be solved and we continue to search for an appropriate means of quantification. Any suggestions for or guidance in solving this would be welcome.

D-3-02. Rulemaking/Authorization

Develop and update rules pertaining to waste oil, solid waste management (RCRA-D), hazardous waste management (RCRA-C) and underground petroleum storage facilities (RCRA-I) as needed to establish siting, design, and operational standards that minimize risks to public health, safety, welfare, and the environment and are at least as stringent as the federal requirements adopted by the EPA.

D-3-02-a. Continue to submit authorization packages to EPA for final approval.

D-3-02-b. Following authorization of the pending rules, develop a plan for addressing remaining areas where rules have yet to be authorized.

D-3-02-c. Issue advisory opinions on the requirements of the RCRA programs and provide EPA with assistance on mutually agreeable issues.

D-3-03. Compliance

Reference Compliance section.

D-3-03-a. Field citations

Evaluate the continued use of field citations in coordination with EPA staff to resolve appropriate violations.

D-3-03-b. TSCA/RCRA

Reference Compliance section.

D-3-04. Above Ground Storage Facilities

Consider the effectiveness of current above ground petroleum storage facility regulatory standards and compliance efforts to prevent petroleum discharges in conjunction with the Above Ground Storage Tank (AST) Task Force established under recent state legislation. Continue the implementation of the program to remove substandard above ground oil storage tanks at residential locations.

D-3-05. Implementation

Continue to implement the joint DEP/EPA July 22, 1992 Memorandum of Agreement governing the implementation and operation of the Maine UST program and the state federal program authorization.

D-3-06. Training

Ensure that people engaged in the handling of solid waste, septage, hazardous substances, and petroleum facilities are offered training on compliance with the regulations. With this information, the facility operators should then be able to ensure that their respective facilities are operated in compliance with the regulations to prevent illegal discharges, emissions, and other threats to Maine's public and its environment.

D-3-06-a. RCRA-C

Conduct educational efforts for hazardous waste generators on the Hazardous Waste Management Rules.

D-3-06-b. UST Training

Conduct workshops as needed at different locations to provide regulatory and technical assistance to UST owners, operators, and installers.

D-4. Abatement and Waste Transportation

By the year 2002, reduce to insignificant levels¹⁴ the risk to public health, safety, welfare, and the environment from the abatement of environmental hazards from, and the transportation of, solid waste, hazardous substances, and petroleum.

Outcome Measures¹⁵: (a) number of transporter applications processed; (b) number of abatement licenses and certifications issued; (c) number of notifications received; (d) number of compliance inspections conducted; (e) percentage of inspections with violations documented; (f) number of enforcement actions initiated; (g) number of training providers accredited; (h) percentage of inspected LEAs (Local Education Agencies) in compliance with AHERA (Asbestos Hazard Emergency Response Act) requirements; (i) number of federal DOT preemption determinations made against state transporter regulations; (j) change in the percentage of children screened who have blood levels in excess of 10 ug/dl; (k) percentage change in number of demolitions reported in the ten (10) largest municipalities.

Background: The purpose of this objective is to protect the public and the environment from exposure to possible hazards from the transportation of petroleum, hazardous substances, and solid waste; and to protect the public from the hazards associated with lead and asbestos containing wastes from abatement of structures.

¹⁴The regulation of abatement, installation and removal, and transportation seeks to prevent the creation of *any* risks from these activities. However, due to the human factor in the performance of these activities, the measurable outcome of this objective reflects the reality that zero risk will not be achievable.

¹⁵It is recognized that these measures may be more accurately described as outputs as opposed to outcomes. However, the quandary created by the questions "How does one measure prevention?" and "How does one measure risk?" has yet to be solved and we continue to search for an appropriate means of quantification. Any suggestions for or guidance in solving this would be welcome.

D-4-01. Training

Ensure that people engaged in lead and asbestos abatement activities, underground oil storage tank installation and removal, and waste (hazardous, biomedical, oil, and nonhazardous) transport are adequately trained to properly abate, handle, and dispose of these wastes. This will be accomplished through: processing of lead and asbestos licensing/certification applications, providing technical assistance to lead professionals and the public, further developing reciprocity with other states and tribes for lead and asbestos certifications, conducting training course audits, implementing the lead program MOU with area tribes, and providing education to asbestos and lead professionals, the regulated community, and the general public through a variety of educational initiatives.

D-4-02. Compliance for Lead and Asbestos

Conduct targeted field inspections, investigate complaints and take enforcement actions to ensure no public health or environmental risks are created through improper abatements, and that LEAs are in compliance with the Asbestos-Containing Materials in Schools rules, 40 CFR Part 763, Subpart E. Reference Compliance section.

D-4-03. Rulemaking

Develop and update rules pertaining to lead and asbestos management, to the installation and removal of underground and above ground storage tanks, and to the transportation of hazardous and non-hazardous wastes as needed.

D-5. Waste Reduction and Recycling

By the year 2002, increase by 10% from 1996 levels the portion of Maine's waste streams being managed through appropriate source reduction, separation, reuse, and recycling.

Outcome Measures¹⁶: (a) amount of waste managed; (b) types of waste managed; (c) amount of waste recycled in a sound manner; (d) number of enforcement actions initiated due to inappropriate reduction, reuse, and recycling techniques; (e) number of reuse and recycling permits issued.

Background: The purpose of this objective is to reduce the amount of wastes generated and requiring disposal. The Department will encourage waste reduction, recycling, beneficial reuse, and agronomic utilization through education and regulations based on strong science, traditional regulation, and innovative environmentally sound approaches to pollution prevention.

¹⁶It is recognized that these measures may be more accurately described as outputs as opposed to outcomes. However, the quandary created by the questions "How does one measure prevention?" and "How does one measure risk?" has yet to be solved and we continue to search for an appropriate means of quantification. Any suggestions for or guidance in solving this would be welcome.

D-5-01. Pollution Prevention and Technical Assistance

Develop and implement hazardous waste and petroleum pollution prevention or technical assistance initiatives focused at various segments of the regulated community.

D-5-02. Environmental Management Systems (EMS)

Continue to investigate the relevance and applicability of environmental management systems in various regulatory programs. Encourage the use of an EMS where appropriate.

D-5-03. Reuse of Solid Wastes

Provide education and technical assistance in following the newly promulgated regulations to ensure the safe beneficial use and agronomic utilization of solid wastes.

D-5-04. Household Hazardous Waste

Establish a workgroup for household hazardous waste. Develop options for establishment of a collection program in Maine and/or mechanisms for encouraging additional source separation of toxic components in the solid waste stream.

D-6. Regulatory Compliance

This section covers compliance activities for asbestos (D-6-A.), (lead D-6-B.), RCRC-C (Hazardous Wastes) (D-6-C.), and RCRA (I) (UST/Oil) (D-6-D.).

D-6-A. Asbestos

The asbestos program is under the jurisdiction of the Director of the Division of Solid Waste Management and managed through the Lead and Asbestos Hazardous Prevention Program. Asbestos program staffing includes one (1) full-time manager, one (1) full-time compliance inspector, ½-time enforcement coordinator, and ½-time training coordinator, along with assistance from the clerical unit. All staff persons are located in Augusta and the program is entirely managed from there.

D-6-A-01. Asbestos Compliance Monitoring

D-6-A-01-a. Compliance Inspections

The types of compliance activities, including projected annual amounts, for asbestos abatement activities and their relative priority ranking are as follows: tips, complaints, and referrals of a serious nature; large friable abatement projects; new and/or out-of-state contractors; small abatement or non-friable projects; schools; and demolition projects. Program standard operating procedures exist and are utilized for all types of compliance related activities.

MEASURE OF SUCCESS:

➤ *Number of compliance inspections conducted, including tips, complaints, and referrals.*

D-6-A-01-b. Certification Issuance

The DEP will continue to review applications for licensing and certification, and issue these credentials as appropriate.

MEASURE OF SUCCESS:

➤ *Number of professional certifications and company licenses issued.*

D-6-A-01-c. Enforcement

The DEP will pursue enforcement actions as appropriate for significant non-compliance and to gain compliance as needed.

MEASURE OF SUCCESS:

➤ *Percentage of inspections resulting in "Letters of Warning" and "Notices of Violation" being issued.*

D-6-A-02. Asbestos Compliance Assistance

D-6-A-02-a. Education and Outreach

- 1) **Training.** The Asbestos Unit will continue to offer presentations at initial educational courses targeted at the regulated community to enhance compliance. The Unit also trains at various meetings, seminars, and groups as requested.
- 2) **Written Correspondence.** The Unit will continue to distribute hundreds of educational pamphlets and respond to hundreds of phone calls annually in an effort to inform the regulated community.
- 3) **Telephone Calls and E-mail.** The Unit will continue to respond to hundreds of phone calls annually to provide compliance information.

D-6-A-02-b. Technical Assistance

Technical assistance is provided as a service to the regulated community through on-site visits and project-specific interpretations by phone (and hardcopy). The Unit is also part of an industry organization, which meets four times annually, geared at providing environmental information and education to the people of Maine. Last, the Unit will develop and distribute educational materials detailing changes to state regulations slated for adoption by year's end.

D-6-A-03. Data Management and Reporting

D-6-A-03-a. Data Management

The Unit maintains several databases to ensure accurate program tracking and to provide up-to-date information to the public and regulated community. The databases that we will maintain include: Education and Outreach; Compliance Tracking; Enforcement Tracking; CERT; and CLASS.

D-6-A-03-b. Reporting

The Unit will continue to provide monthly database updates and quarterly reports to EPA on program activities as required.

D-6-A-04. Policies and Special Initiatives

D-6-A-04-a. Rule Training

In response to the newly revised state asbestos rules, the Unit will present at least one rules workshop for the regulated community.

D-6-A-04-b. Demolition Project Reporting

The Asbestos Unit will also continue to implement, in conjunction with the affected city, a demolition reporting system with the ten (10) largest cities in Maine. The Asbestos Unit will also undertake an outreach program to all other municipalities in the state to inform them of demolition reporting requirements.

MEASURES OF SUCCESS:

- *Percentage change in the number of demolition activities reported in the ten largest municipalities.*
- *Number of municipalities directly informed of need to report demolitions to DEP Asbestos Program.*

D-6-A-04-c. Training Course Revamp

The Training Coordinator will work with Maine-licensed Asbestos Training Providers to refine and update asbestos training course curricula and teaching methods.

MEASURE OF SUCCESS:

➤ *Number of consultations provided to Maine-licensed Asbestos Training Providers.*

D-6-A-04-d. Website Development

The Asbestos Unit will maintain general program, regulatory information, and all program forms on a website.

MEASURE OF SUCCESS:

➤ *Number of website hits*

D-6-B. Lead Program

The DEP lead program is managed by the Director of the Division of Solid Waste Management through the Lead and Asbestos Hazard Prevention Program. Lead program staffing includes one (1) full-time compliance inspector, ½-time enforcement coordinator, ½-time training coordinator, and one (1) full-time environmental technician. All staff persons are located in Augusta, but utilize DEP's regional offices for field work.

D-6-B-01. Lead Compliance Monitoring

D-6-B-01-a. Compliance Inspections

The priority criteria for DEP compliance inspections of lead abatement activities include: activities as a result of an order to abate by Maine's Department of Human Services ("DHS") in response to a lead-poisoned child; tips and complaints of illegal activities; work performed under funding from the Center for Disease Control and/or HUD; and other abatement work. The DEP will also continue its program of quality control inspections with licensed lead inspectors and risk assessors.

MEASURES OF SUCCESS:

➤ *Percentage of DHS-ordered lead abatement worksites inspected for compliance.*

➤ *Percentage of lead inspectors and risk assessors receiving quality control inspections.*

D-6-B-01-b. Certification Issuance.

The DEP will continue to review applications for licensing and certification, and issue these credentials as appropriate.

MEASURE OF SUCCESS:

➤ *Number of professional certifications and company licenses issued.*

D-6-01-c. Enforcement.

The DEP will pursue enforcement actions as appropriate for significant non-compliance and to gain compliance as needed.

MEASURE OF SUCCESS:

➤ *Percentage of inspections resulting in “Letters of Warning” and “Notices of Violation” being issued.*

D-6-B-02. Lead Compliance and Technical Assistance

D-6-B-02-a. Training.

The Lead Unit will continue to offer presentations at initial educational courses targeted at the regulated community to enhance compliance. The Unit will also administer third-party course exams at all initial lead training courses.

D-6-B-02-b. Coordination of educational efforts.

DEP will continue efforts to develop audience-specific educational materials, and to coordinate with DHS to conduct outreach & education activities for lead poisoning prevention.

D-6-B-02-c. Written Correspondence, telephone calls and e-mail.

The Unit will provide written educational materials to the public on an as-needed basis to ensure that people working around lead-based paint do not create lead hazards. The DEP will also continue to distribute information via phone calls, e-mail, and mail on the state “Lead Management Rules”, the federal real estate disclosure rule, and on federal rules adopted in conformance with TSCA Sections 403 and 406.

D-6-B-03. Data Management and Reporting

D-6-03-a. Data Management.

The Unit maintains several databases to ensure accurate program tracking and to provide up-to-date information to the public and regulated community. The databases that we will maintain include: Education and Outreach; Compliance Tracking; Enforcement Tracking; CERT; LEAD-NET; and, CLASS.

D-6-03-b. Reporting.

The Unit will continue to provide monthly database updates and reports to EPA on program activities as required.

D-6-B-04. Policies and Special Initiatives

D-6-B-04-a. Training

The Training Coordinator will work with all Maine-licensed Lead Training Providers to refine and update lead training course curricula and teaching methods. More effective training will help to improve compliance.

MEASURE OF SUCCESS:

➤ *Number of consultations provided to Maine-licensed Lead Training Providers.*

D-6-B-04-b. Website Development

The DEP will update materials and continue to add new information and links to the website established for the lead program under last year's grant.

MEASURE OF SUCCESS:

➤ *Number of website hits.*

D-6-B-04-c. Environmental Justice Initiative with Native Americans

In 1998 the DEP finalized an MOU with four Native American Tribes in Maine. This MOU addresses the areas of training, compliance, certification, and licensing for lead professionals and contractors. The DEP will continue to implement the terms of this MOU in 2000.

D-6-B-04-d. Lead-Safe Child Care

The DHS oversees daycare facility licensing in Maine. As of July 1, 1998, daycare facilities are required to be lead-safe prior to re-licensing. DHS is implementing a process to provide lead inspections to daycare facilities determined to be at risk of having lead hazards. Throughout FFY01, the DEP will continue to work with DHS to target our quality assurance/inspection compliance efforts on work performed for daycare licensing.

D-6-B-04-e. Implementation of new HUD Lead Safety Rule

DEP will provide a capacity assessment of Maine-licensed lead professionals to MSHA, the Department of Economic and Community Development, and Public Housing Authorities, and will work with these entities to develop plans for implementation of the new HUD Lead Safety Regulations.

D-6-C. RCRA-C Hazardous Wastes Program

Maine's hazardous waste compliance activities are primarily conducted by the Hazardous Waste Enforcement Unit, which will be staffed by FY 2001 with six (6) hazardous waste ("RCRA") inspectors, one (1) RCRA- and PCB-combined ("TSCA") inspector, and one (1) enforcement unit supervisor. Maine is divided into four (4) geographic regions. Inspectors are assigned regional coverage responsibilities or are regionally based so that the enforcement unit appropriately serves each region. Two RCRA inspectors are located in the Portland Office, one RCRA inspector is located in the Bangor Office and the other staff are located in the Augusta office.

D-6-C-01. Compliance Monitoring

In FFY01-02, DEP will conduct a total of one hundred twenty (120) compliance evaluation activities, including ninety-four (94) RCRA compliance inspections and twenty-six (26) PCB inspections or projects, consistent with the goals of performance, flexibility and accountability provided under the PPA. During FFY01, it is expected that the DEP will conduct fifty-eight (58) inspections, including forty-five (45) RCRA inspections and thirteen (13) PCB inspections/projects. During FFY01, DEP expects to conduct sixty-two (62) inspections, including forty-nine (49) RCRA inspections and thirteen (13) PCB inspections/projects. PCB projects may include compliance investigations, enforcement actions, record reviews, advising opinions, oversight of PCB remedial projects and plan approvals involving TSCA issues.

Based upon available staffing and funding, DEP's Hazardous Waste and PCB Compliance Program has selected an array of strategic compliance activities which are important to achieving Maine's goals of protecting and improving human health and the environment for all its citizens. These activities include Complaint Inspections, Large Quantity Generator ("LQG") Inspections, Non-notifier Inspections, 100-1000 kg/mo Generator Inspections, Treatment Storage Facility Inspections, Hazardous Waste Transporter Inspections, Habitual Violators/Follow-up Inspections, Land Disposal Facility Groundwater Monitoring Inspections, and PCB Inspections. These inspection activities and the specific focus within each activity are described as below.

D-6-C-01-a. Compliance Inspections for Hazardous waste generators that produce between 100-1000 kg of hazardous wastes per month (federal SQGs). DEP will conduct fifteen (15) federal SQG inspections, seven (7) during FFY01 and eight (8) during FFY02. Prior to FFY95, DEP had traditionally focused its inspection resources on generators who produce greater than 1000 kg of hazardous waste per month (LQGs). Based on the information contained in EPA's Resource Conservation Recovery Information System ("RCRIS") federal SQGs outnumber LQGs in Maine by a ratio of 7:1. There are over six hundred (600) federal SQGs in Maine. Federal SQGs generate the same types of hazardous wastes as LQGs and pose potentially greater risks to human health and the environment due to the larger number of handlers and associated locations, along with typically fewer resources and personnel dedicated toward compliance issues or programs. The DEP expects to focus on drycleaners, concrete manufacturers, the composites industry (industries using fiberglass and resin-based materials including boat manufacturing and repair), metal products facilities (SIC347), and other federal SQGs. EPA has identified Drycleaners and metal products facilities as national priorities. Concrete manufacturing and the composites industry have been identified as state priorities. Concrete manufacturers and the composites industry will be targeted for compliance inspections during the second year of the grant period, following the compliance assistance activities provided to these sectors during the first year of this grant (see the *Policies and Special Initiatives* section below).

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

D-6-C-01-b. Treatment Storage Facility ("TSF") Inspection

The RCRA program will conduct two (2) TSF inspections during the FFY01-02 grant period, one (1) TSF inspection during each fiscal year. Currently, there are three (3) RCRA TSFs and one (1) PCB TSF licensed in Maine. The inspections will be targeted to two of those facilities which have not been inspected since FFY97.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

D-6-C-01-c. Large Quantity Generator (“LQG”) Inspections

The RCRA Program will also conduct fourteen (14) LQG inspections as part of its core program, eight (8) inspections during FFY01 and eight (8) inspections during FFY02. Currently, there are about ninety (90) federal LQG facilities registered in Maine. For the LQG inspections, the RCRA program will focus its resources on metal products facilities (SIC347), those facilities not previously inspected, or not inspected within the last five years. EPA has identified the metal products facilities sector as a national priority. In addition, priority will be given to those facilities that have never been inspected, unless other information indicates that the likelihood of waste generation and a waste management problem is low (i.e. based on review of manifests and annual reports or facility knowledge from other programs). Additionally, priority will be given to those facilities that have been the subject of a complaint that has not yet been investigated or a referral from another program.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

D-6-C-01-d. Complaints

DEP will conduct thirty-six (36) complaint investigations, eighteen (18) during FFY01 and eighteen (18) during FFY02, with the potential to conduct more (depending on the number of complaints received). DEP continues to develop its complaint tracking and response procedures to investigate as many of the complaints received as possible, with a goal of addressing 100% of the complaints. Over the past ten (10) years, DEP has received thirty-five to fifty-five (35-55) citizen complaints per year involving alleged mismanagement of hazardous waste. These complaints often originate from individuals that have first hand knowledge of illegal waste management practices at particular Maine facilities. These complaints also originate from locations statewide and the investigations are strategically important to the DEP in maintaining an enforcement presence and responding appropriately to citizen concerns. This information not only identifies a specific target for the program to focus its attention, but develops and fosters credibility for the RCRA program in the eyes of the public which is necessary for continued public support of the program's goals and initiatives. This activity is an important core function of the program.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

D-6-C-01-e. Non-Notifier Inspections / Partial Inspections

The DEP will identify and conduct at least sixteen (16) partial inspections at non-notifiers, eight (8) inspections in each fiscal year of the grant period. A Non-notifier is a facility that generates or is expected to generate hazardous wastes but has not notified the EPA or DEP of its hazardous waste generator activities and may not have properly manifested wastes off-site for licensed hazardous waste disposal. The DEP expects to focus on drycleaners in FY2000 and other non-notifiers in FY2001. EPA has identified drycleaners as a national priority. Although partial inspections are planned, full compliance inspections may be conducted at these facilities depending upon the status or level of compliance found at the time of inspection by the RCRA inspector.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

D-6-C-01-f. Hazardous Waste Transporter Inspections

The DEP will conduct two (2) hazardous waste transporter inspections, one (1) inspection during each fiscal year of the grant period, at hazardous waste transportation facilities based in Maine.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

D-6-C-01-g. Habitual Violators/ Follow-up Inspections

The DEP will conduct six (6) inspections, three (3) inspections during each fiscal year of the grant period, at facilities that have been the subject of one or more informal or formal enforcement actions as a result of inspections or record reviews by the program. These inspections will serve as follow-ups to these previous enforcement actions to ensure that past violators are held accountable to compliance schedules and maintenance.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

D-6-C-01-h. Land Disposal (“LD”) Facility Groundwater Monitoring Inspections

Currently, there are five (5) former land disposal facilities in Maine. The DEP will conduct four (4) inspections at former land disposal facilities, two (2) inspections during each fiscal year of the grant period, for groundwater monitoring activities related to the site. Three (3) of these inspections will be Operations and Maintenance (“O&M”) type inspections and one (1) will be a Compliance Evaluation Inspection (“CEI”).

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

D-6-C-01-i. Polychlorinated Biphenyl (“PCB”) Inspections and Projects

Staff from the will complete twenty-six (26) PCB facility inspections and/or PCB-related projects, thirteen (13) during each fiscal year of the grant period. Targeting will be based upon tips, complaints, and the TSCA random inspection criteria and focus on facilities identified as facilities that have or that are likely to have PCBs or PCB equipment. This criteria for targeting is reviewed annually. Inspection reports and other program coordination and support will be provided to the US EPA TSCA Program, including support for EPA multi-media inspections and other inspection efforts. PCB-related projects as work becomes necessary will be incorporated into the workload. This may include work related to compliance investigations, enforcement actions, record reviews, advisory opinions, remedial oversight and plan approval or state legislation passed in 1999 which mandates the Department to assess PCB facilities and pollution in sensitive areas and report the findings to the legislature in January 2001.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

For the federal SQG, LQG, TSF, LD and transporter inspections described above, DEP inspectors will utilize standardized inspection checklists to ensure that the level of detail is consistent for comprehensive inspections where full evaluations are conducted. In the case of partial evaluation inspections and complaint investigations, RCRA inspectors will limit the standardized checklist to those sections that concern the physical storage and handling of hazardous waste at a facility. Record reviews during partial evaluations and complaint investigations will typically be limited to those records which determine the nature and character of wastes observed during the inspection.

For partial inspections and complaints, RCRA inspectors may increase the level of inspection (e.g. full RCRA CEI), as appropriate, if waste management practices observed at the time of inspection such as incorrect waste determinations or poor container management warrant an in-depth inspection of all hazardous waste management related activities. Instances where threats to human health and the environment are caused by improper hazardous waste management procedures will also prompt a full RCRA CEI followed by an appropriate enforcement response to the violations observed.

Facilities will also be targeted geographically in an attempt to provide maximum statewide coverage for each inspection category to maintain a RCRA compliance presence in each region. Selection criteria within the regions will include the following: (a) industry-sector or category target as specified for the grant period; (b) industry-type likely to generate hazardous waste on a routine basis; (c) subject of a complaint that has not yet been investigated; (d) facility-specific concern indicated by review of manifests, annual reports, or other information; (e) never inspected before; and/or (f) referral from another DEP program with an indication of a potential waste management problem.

In developing DEP's inspection strategies, the input from experienced field inspectors has allowed Maine's RCRA program to focus its RCRA resources in strategic areas that are unique to the State of Maine, while maintaining the level of enforcement and presence expected by EPA. Other handlers that present an imminent and substantial endangerment remain a top priority and will always take precedence over inspections targeted solely based on category or industry-sector.

D-6-C-01-j. Hazardous Waste Manifests

The RCRA Program monitors compliance of hazardous waste shipments documented by Uniform Hazardous Waste Manifests. The RCRA Program issues Letters of Warning and Notices of Violation for manifest discrepancies and misuse. The RCRA Program will maintain a hazardous waste manifest program and database for tracking compliance with transportation and disposal requirements and for use in compiling background information for compliance investigations and reviews of waste types, amounts, and disposal practices of facilities and inspection candidates. Approximately 5% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *Maintenance of the hazardous waste database and issuance of enforcement notices as necessary to maintain accurate data and ensure hazardous waste shipments are tracked from "cradle to grave" documenting proper disposal.*

D-6-C-01-k. Follow-up on Prior Commitments

The DEP will follow-up on enforcement cases initiated prior to FFY00-01. This will include tracking compliance schedules and negotiating administrative consent agreements and enforcement orders to resolve cases that are carried over from the previous fiscal year. The program will strive to improve on the timeliness of enforcement responses on cases involving consent agreements. The program will expend additional efforts on cases initiated prior to FFY00-01 in order to follow through and complete the appropriate enforcement actions. For example, continuing efforts are anticipated in follow-through work on the HoltraChem Manufacturing Corporation ("HMC") enforcement case and the Durastone case. The HMC case is a high profile, multi-media case in which a compliance order was issued in November 1997 (for a chlorine discharge), a consent agreement was finalized in December 1997 (to address hazardous waste discharges, RCRA waste management violations, water discharge violations, and RCRA Corrective Action issues), and a court-supervised Consent Decree was executed in March 1998 (to address a February 1998 hazardous waste discharge). The compliance order, consent agreement, and Consent Decree each contain important corrective action plans, measures, and reports that will involve enforcement staff time in review and oversight. In addition, corrective action measures for the site pursuant to a Corrective Action Order will be under consideration during this grant period. The Durastone case is a civil enforcement case that has progressed in tandem with an EPA criminal investigation. The Department issued Durastone a Compliance Order in May 1999 which includes a compliance schedule and site investigation that has been tracked by Department staff. The case has involved numerous reviews of compliance to the schedule and the Department anticipates negotiating an Administrative Consent Agreement and Enforcement Order related to monetary penalties associated with violations addressed under the Order and a subsequent notice of violation. The Durastone case and the type of violations discovered has been the primary reason for initiating an industry-wide compliance assistance project for the concrete industry referenced in the Policies and Special Initiative Section below. Approximately 10% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *The number or percentage of previously unresolved prior commitments completed through successful resolution of enforcement actions, compliance schedules or clean-ups.*

D-6-C-01-l. Multimedia Issues

As part of the compliance monitoring activities described above, the RCRA program will plan to participate in two (2) multi-media inspections, complaint investigations or enforcement actions as appropriate and necessary at facilities where cross-media issues have been identified. Approximately 2% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

D-6-C-01-m. Enforcement-related Clean-ups and Corrective Actions

The Hazardous Waste Enforcement staff work on a variety of enforcement projects that include site investigation and remedial action or corrective action to effect clean-ups of hazardous waste contamination discovered during the course of a compliance inspection or enforcement action. During FFY01-01, enforcement staff is expected to be involved with reviews and approvals of site investigations and remediation projects at 10 sites and may become involved in other corrective action sites as necessary. Approximately 10% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented or remediated.*

D-6-C-01-n. Enforcement

DEP enforcement actions will be initiated in accordance to the RCRA Enforcement Response Policy and enforcement status report criteria established in previous Memorandum of Agreement with EPA as part of the RCRA authorization process. DEP has statutory authority, 38 M.R.S.A. § 347-A, to initiate enforcement actions that include notices of violation and administrative consent agreements, as well as filing cases in Maine District Court for prosecution by staff. Our statutes also provide for civil or criminal referrals for prosecution by the Maine State Attorney General's Office.

MEASURE OF SUCCESS

➤ *Number of enforcement actions initiated.*

D-6-C-02. Compliance Assistance

Compliance assistance is currently conducted statewide and in coordination with the DEP's Hazardous Waste Licensing Unit, the DEP Commissioner's Office of Innovation and Assistance ("OI&A") staff, and OI&A cooperative initiatives.

D-6-C-02-a. Advisory Opinions

An important aspect of the compliance assistance program is the advisory opinions and regulatory assistance that is routinely rendered in writing and by telephone by RCRA staff to facilities seeking guidance on specific rule interpretations and applications of RCRA. While identified under the Compliance Assistance category, this type of written and verbal guidance for the public and regulated industry requires formalized enforcement policy-making that may on occasion require regulatory research and analysis, internal reviews, and/or consultations with the Attorney General's Office. Enforcement staff also assists OI&A staff by reviewing advisory opinions and regulatory assistance correspondence issued through the OI&A program. Approximately 5% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *Issuance of advisory opinions as requested.*

D-6-C-02-b. Compliance Assistance Education

RCRA staff also expects to develop and participate in at least two (2) public speaking engagements or seminars to explain the hazardous waste management standards to help facilities comply. The DEP conducts numerous presentations on hazardous waste management standards and compliance assistance. These presentations are scheduled upon request. Approximately 5% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *Completion of compliance assistance education commitment.*

D-6-C-02-c. Compliance Assistance Policies and Special Initiatives

See the Policies and Special Initiatives Section below for additional compliance assistance activities. Approximately 5% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *The number or percentage of the initiatives completed to help ensure that compliance is gained or maintained and pollution is prevented.*

D-6-C-02-d. Significant Non-Compliance

DEP will classify and identify non-compliance for tracking within the RCRIS database based upon EPA's 1996 Enforcement Response Policy ("ERP"). Classifications will include Significant Non-Compliers ("SNCs") and Secondary Violators. DEP will identify SNCs within the RCRIS database and pursue enforcement action at a level of appropriateness and timeliness consistent with the ERP, including formal or informal actions.

MEASURE OF SUCCESS

➤ *Proper classification of on all significant non-compliers in the RCRIS database.*

D-6-C-03. Data Management

DEP will report inspection and enforcement activities, including inspections, violations, informal and formal enforcement actions, to US EPA's RCRIS database manager for inclusion in the RCRIS Oversight and Implementer databases.

MEASURE OF SUCCESS

➤ *Complete reporting and maintenance of enforcement-related data to the RCRIS database.*

D-6-C-04. RCRA Base Program and Rule-making Activities

In addition to the above activities, Hazardous Waste Enforcement staff are typically involved in the development and review of rule-making initiatives, such as the Universal Waste Rule, Hazardous Matter Rules, Waste Oil Rules, and Recyclable Hazardous Materials Rules currently underway to promulgate or update rules as necessary for program authorization or program development. Approximately 5 - 10% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ Completion of enforcement-related rule-making activities and participation and input into hazardous waste rule-making coordinated by other RCRA program staff.

D-6-C-05. Policies and Special Initiatives

D-6-C-05-a. Small Business Compliance Incentives Policy

The DEP Small Business Technical Assistance Program provides for pollution prevention and compliance assistance for facilities with less than one hundred (100) employees. As part of this program, violations identified through DEP technical assistance activities or through voluntary disclosure by the company will be placed on a compliance schedule without a formal penalty. Those situations that present an imminent and substantial endangerment to human health and the environment will be immediately addressed through a formal consent agreement or referral to the Maine State Attorney Generals Office for injunctive relief. The program will also reserve its right to seek enforcement action and penalties as circumstances may warrant.

MEASURE OF SUCCESS

➤ *The number of companies assisted under the Small Business Compliance Incentive Policy to help ensure that compliance is gained or maintained and pollution is prevented.*

D-6-C-05-b. Composites Industry

During FFY01-02, the Hazardous Waste Enforcement Unit will coordinate and assist with the development of Best Management Practices aimed at the composites industry to provide educational outreach and compliance assistance to this industry sector. In addition to the BMPs, the Hazardous Waste Enforcement Unit will assist the P2 staff in conducting one to two seminars to provide “classroom-type” compliance assistance developed and targeted to this sector.

MEASURE OF SUCCESS

➤ *The number assistance activities or percentage of the initiative completed to help ensure that compliance is gained or maintained and pollution is prevented.*

D-6-C-05-c. Mercury and Universal Waste Initiative

The enforcement staff will also participate in the Department's State-wide Mercury Initiative to identify sources and extent of mercury contamination and assess the possible pollution prevention and compliance assistance opportunities to reduce or eliminate mercury contamination and mercury sources from entering the environment, including implementation and administration of the Department's mercury-containing lamp policy new Universal Waste Rules and expansion of that policy for Voluntary Municipal Collections, and work on initial stages of a Dental Waste Initiative.

MEASURE OF SUCCESS

➤ *The number assistance activities or percentage of the initiative completed to help ensure that compliance is gained or maintained and pollution is prevented.*

The number of inspections identified in the Compliance Monitoring section (above) is considered a baseline level of effort and the full extent and range of compliance assistance activities described above in this Policies and Special Initiatives section above will be contingent upon resources available to complete the baseline level of activities in the Compliance Monitoring section. The core program activities and compliance monitoring will receive a higher priority for completion than the compliance assistance and special initiative activities above.

In accordance with the DEP's Strategic Plan, outcome measures include the number of complaints investigated, compliance inspections conducted, violations documented, enforcement actions initiated, enforcement-related corrective actions or clean-ups initiated, and technical assistance and outreach activities conducted. The primary measures of success for compliance monitoring will be the number of complaints investigated, number of inspections conducted, number of enforcement actions initiated in FFY01-02. The number of compliance evaluation inspections and monitoring activities outlined above in Section II may be modified in the event of any unanticipated changes in case workloads or staffing levels and, if necessary, to account for time and resources devoted to assisting EPA in its audit of Maine's compliance programs which is expected to continue in FFY00-01.

D-6-D. RCRA (I) UST/Oil Enforcement Program

The Department's oil enforcement program includes six (6) staff in the "Oil Enforcement Unit" ("OEU"): three (3) Environmental Specialist ("ES") IIs, two (2) ES IIIs and one (1) ES IV. Staff's primary duties are enforcing the state's laws for groundwater protection and underground oil storage, 38 M.R.S.A. Sections 541-570, and the Department's Rules for Underground Oil Storage ("UST") Facilities, Chapter 691.

Staff also enforce standards for the installation of underground piping for above ground oil storage facilities ("ASTs"). As of July 1, 1999, operation of an AST with underground piping that is not constructed of fiberglass, cathodically protected steel or other non-corrosive material approved by the Commissioner, is prohibited. However, unlike regulation of USTs, the Department's jurisdiction over ASTs is limited to underground piping, and registration of ASTs is not mandatory. Therefore it is only possible to enforce this requirement on a case by case basis where ASTs are registered or discovered.

The primary function of the OEU is ensuring compliance with petroleum product storage facility requirements. Approximately 90% of OEU's enforcement-related activities involve USTs. The other 10% are actions taken to resolve violations of the oil spill clean-up laws. Of these, the most common violations are failure to prevent or clean up petroleum product discharges to the environment.

OEU staff classifies violations according to severity to ensure a consistent response to similar violations. Consistent with the Department-wide Compliance Policy, less severe violation classifications are addressed with a Notice of Violation ("NOV"), in conjunction with technical assistance and additional communication as appropriate. For more severe or repeat violations, an Administrative Consent Agreement ("CA") may be issued seeking a negotiated resolution of the violations. The OEU may also prosecute cases not capable of administrative resolution in Maine District Court or refers cases to the Department of the Attorney General for prosecution in Maine Superior Court.

A secondary function of the OEU that until 1999, consumed a significant amount of resources, relates to determinations of eligibility and deductibles for applicants to the Ground Water Oil Clean-up Fund ("Fund"). The Fund provides environmental liability insurance to owners and operators of USTs by covering eligible clean-up costs of a leak or discharge of oil from an UST facility. Deductibles are based on the number of facilities owned and a facility's compliance with the applicable UST rules for leak detection, facility maintenance, removal of non-conforming tanks, etc. Since 1990, the Department has received 535 Fund applications from UST owners or operators. Until October 1, 1998, most Fund applications were initiated because of contamination discovered during removal of non-conforming tanks.

Staff must issue a Department Order that lists the basis of each deductible to a Fund applicant. Because there is a 90-day statutory deadline for Department staff to issue an Order for each application, responding to Fund applications often takes precedence over other activities in the short term.

Applicants may appeal deductible determinations to the Fund Insurance Review Board ("FIRB"). For each appeal, staff must prepare the "record" including a written statement and must appear before the FIRB. The FIRB upholds or overturns the Department's deductible determinations on a case by case basis. During the Federal fiscal year 1998 (October 1, 1997 through September 30, 1998) the OEU represented the Department at nine appeal hearings before the FIRB.

In accordance with State statute, oil discharges discovered from bare steel tanks after October 1, 1998 are not eligible for coverage. As a result, the rate of new applications dropped significantly starting in 1999. Since January 1, 1999, the Department has received twelve (12) Fund applications from UST facility owners or operators.

The goal of the enforcement program is to minimize or prevent leaks and spills of oil to the environment by bringing UST facility owners and operators and other persons who handle oil into compliance with applicable regulations. Communication, education and technical assistance are valuable and frequently used tools in the enforcement process. These include the following:

D-6-D-01. RCRA (I) Hazardous Wastes Compliance Monitoring

D-6-D-01-a. UST facility inspections

In the past few years, OEU staff has typically conducted compliance inspections at approximately 80 UST facilities that store either motor fuels or oil for marketing and distribution. These include gasoline service stations, convenience stores, motor fleet sites, farms, municipal, state and Federal facilities. In general, priorities for compliance inspections consist of UST facilities with one or more of the following criteria. Inspection sites are not limited to those with these criteria, however.

- >2 years since last inspection
- recent change of ownership
- enforcement or leak history
- violations or suspected violations
- installation problems or other questions raised through review of annual tank system inspection reports
- sensitive geologic area

Staff use a field checklist to document the inspection and issue a NOV on-site for any violations discovered. The NOV contains instructions and time frames for resolving specific violations and requires the owner or operator to submit follow-up documentation to show that violations are addressed.

Inspection locations are targeted in proportion to the total population of UST facilities in each county to ensure that all geographic regions of the state are visited. Inspections may be relocated slightly to accommodate specific high-priority facilities and time limitations.

As schedules permit, Department staff conduct inspections jointly with EPA staff from the Region I Office of Underground Storage Tanks ("OUST"). Department staff selects the facilities to be visited by State and Federal staff together. During an inspection, EPA may issue a Federal field citation for violations of any Maine UST regulations that are also violations of corresponding Federal regulations. EPA's field citation carries a monetary penalty that is determined according to a matrix and in consultation with Department staff, who concurrently issue a Notice of Violation as applicable. The EPA refers to the field citation as "expedited enforcement". Since the Department can not issue a monetary penalty in the field, the Federal citation serves as a "wake-up call" to the facility owner or operator, who may be otherwise inclined to ignore a Department NOV. The field citation program is a valuable aid to the Department by improving compliance with the UST regulations on a case by case basis. Approximately 15% of all inspections are conducted with EPA.

MEASURES OF SUCCESS

- *The number of facilities inspected.*
- *Compliance rates discovered at inspected facilities.*

D-6-D-01-b. Mass mailing of Notices of Violation

OEU staff sends out mass mailings of Notices of Violation ("NOV") to tank owners who are in violation of the statutes and regulations, which apply to USTs. These Notices provide the basis for escalated enforcement action if a tank owner fails to respond. The following NOVs are sent out annually.

- 1) "NOV for failure to perform an annual Statistical Inventory Analysis (SIA)" -
- sent to all facilities that are required but failed to submit an annual SIA by the appropriate deadline. This NOV will be sent out in November.
- 2) "NOV for failure to submit a proper Site Assessment" -- sent to tank owners that have removed their UST and failed to submit a proper site assessment. This Notice will be sent out in January or February.

Other mass mailings of Notices of Violation are sent out on an "as needed" basis.

MEASURE OF SUCCESS

- *The number of facilities coming into compliance within 90 days after NOV is sent.*

D-6-D-01-c. Compliance Status Reviews

Upon request by management or other Department program staff, OEU will evaluate the compliance status of particular facilities. This function occurs in the context of multi-program enforcement efforts or to determine eligibility for state issued awards for environmental performance.

MEASURE OF SUCCESS

- *Number of facilities which, upon review, are not the subject of enforcement action.*

D-6-D-02. Compliance Assistance

Staff spend a significant portion of the time during most inspections on technical assistance. Staff instruct owners and operators on how to perform proper leak detection, maintain equipment and properly abandon tanks as needed. It is important for staff to obtain and maintain technical knowledge and training in all aspects of facility design, installation, leak detection and maintenance.

Staff also provides verbal and written technical assistance daily in response to phone calls from UST owners and operators, other professionals and the public. OEU staff have developed concise guides and summaries describing requirements for UST removal and abandonment-in-place, facility operation and maintenance, leak detection and other activities. Staff proactively offer technical assistance in response to questions because many compliance problems are prevented or resolved in this manner.

MEASURE OF SUCCESS

➤ *Approximate number of facilities provided technical assistance in response to inquiries.*

D-6-D-03. Mass Mailings

OEU staff have developed several informational mailings to UST owners that explain the regulations for underground oil storage facility operation and maintenance, and that include suggested checklists and record keeping logs, as applicable. Mailings made annually include:

- 1) "Cathodic Protection" letter -- sent to all owners of cathodically protected steel USTs, explains requirements for annual testing of the corrosion protection, includes technical guidance and a log-sheet
- 2) "Annual Tank System Maintenance Log" -- sent to all UST owners except for homeowners, describes requirements for annual maintenance of leak detection systems, overfill and spill protection, includes a checklist.

The Department combined these communications into a single mailing in April 1999, which improved the efficiency of the mailing and improved convenience for the UST owners.

MEASURE OF SUCCESS

➤ *Number of facilities contacted through mass mailings.*

D-6-D-04. Data Maintenance

It is not possible to review a file and conclusively determine that a facility is in compliance with all applicable requirements, because Department regulations do not require a facility owner or operator to submit all types of compliance information to the Department. However, the following records and databases enable staff to track enforcement cases, facility registrations and inspection results, and may enable limited tracking of certain aspects of the program.

D-6-D-05. Enforcement Cases ("UTE" log)

The UTE database tracks specific enforcement cases that result from violations of any of the enforcement programs described in the Overview above. Violations are listed by code and prioritized into one of three levels. Staff are able to track specific information and the status of any case. Inspections that involve violations are also tracked on this database. This is all-inclusive of violations of the UST program and the oil statutes in general.

D-6-D-06. TANKS

Registration information for every UST facility is maintained in this database. The Department has implemented a series of upgrades to its so-called TANKS database over the past four years to enable the database to accommodate more specific facility information and to improve the accuracy and overall quality of the data. The OEU is planning additional upgrades to TANKS to enable us to measure compliance with facility leak detection, operation and maintenance regulations.

D-6-D-07. Inspection Log

This database is a subset of TANKS and contains the facility name, OEU staff, date and results of each inspection. Specific violations that were identified in an inspection are also recorded. This database may be used to track the relative frequency of particular violations at facilities inspected, such as the failure to maintain electronic leak detection devices.

MEASURE OF SUCCESS

➤ *Number of facilities inspected with violations.*

D-6-D-08. Policies and Special Initiatives

D-6-D-08-a. Environmental Leader Program

In 1997 OEU staff assisted a broader Department effort that developed the Maine Environmental Leader ("EL") program for owners of retail gasoline dispensing facilities. The EL program is intended as an innovative way to promote compliance with the State's UST, hazardous waste, solid waste and air emissions requirements related to vapor recovery.

The EL program has been modified to allow qualified third party contractors to conduct on-site inspections, and to determine eligibility to receive an EL award.

MEASURES OF SUCCESS

➤ *Number of applicants and number of awards*

D-6-D-08-b. Enforcement Strategy for Remaining Bare Steel Underground Oil Storage Tanks

At this time approximately 110 bare steel, Federally regulated motor fuel USTs and approximately 80 commercial, industrial, farm, and municipal heating oil USTs are being operated or are improperly abandoned, in violation of the state removal deadline (October 1, 1997 for most facilities). An additional 286 residential tanks are in violation of the removal deadline. No tanks used for marketing and distribution of product remain in operation.

The Department has amended its existing enforcement strategy to focus on reducing the environmental threat from remaining tanks. The first priority will be Federally regulated motor fuel tanks that may have product in them. The Department has filed an application seeking Federal funds to use in pumping out and removing tanks. The Department will seek voluntary participation from owners wherever possible, and may seek injunctive relief as necessary. Tanks in sensitive geological areas will be priorities for product removal. Recent legislative initiatives successfully established that costs associated with proper abandonment of prohibited tanks would constitute a lien against the owner's property.

State law and the Department's Rules, Chapter 691; have required registration of all existing and new USTs since 1986. The OEU continues to enforce the rules for registration and proper abandonment (removal) of USTs as unregistered USTs are discovered.

MEASURES OF SUCCESS

- *Number of non-conforming facilities properly abandoned*
- *Number of tanks where product has been removed but abandonment process is not yet complete*